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DEPARTMENT OF THE TREASURY
U.S. CUSTOMS SERVICE

FIFTH SET
REVISED PAGES
TO
1981 REPRINT
CUSTOMS REGULATIONS

(These pages include changes made by Treasury Decisions 82-118 through 82-201.)

(July - October, 1982)

NOTICE

THIS SET CONSISTS OF PAGES:

CR: xv, xvi*,xvi.1*, 5*, 6*, 15, 16*, 17*, 18*, 25, 26*, 27, 28*, 39*, 40*, 41*, 42*, 42.1*, 43*, 44, 51, 52*, 53*, 54, 58.1*, 59, 60*, 75, 76*, 95, 96*, 97*, 98*, 98.1*, 109, 110*, 127, 128*, 137, 138*, 139*, 140*, 141*, 142*, 143*, 144*, 145*, 146*, 147*, 148*, 149*, 150*, 151, 152*, 153, 154*, 155*, 156, 157, 158*, 161*, 162, 165, 166*, 169*, 170*, 171, 172*, 181*, 182, 191*, 192*, 193*, 194*, 197*, 198, 221*, 222, 229*, 230, 234.1*, 253*, 254, 255, 256*, 257, 257.1*, 269*, 270*, 271, 272*, 272.1*, 287*, 288, 297, 298*, 301, 302*, 305, 306*, 310.1*, 325*, 326, 343, 344*, 344.1*, 367, 368*, 369, 370, 387*, 388, 395, 396*, 397*, 398*, 399*, 400*, 401*, 402*, 403*, 405*, 406, 421, 422*, 423*, 424*, 425*, 426*, 433*, 434, 475*, 476, 517, 518*.

* Asterisk indicates change on page.

The sections in which changes were made in the fourth set are identified with the symbol O.

The sections in which changes have been made in this set are identified with the symbol ■.

This set of revised pages to the Customs Regulations should be added to or substituted for the pages bearing corresponding numbers in that publication.

COMPLETED

Penalties and the title of the Deputy Commissioner for said Division is changed to Director, Division of Entry Procedures and Penalties.

The designation of the Division of Marine Administration is changed to Division of Marine and Transportation Rulings, and the title of the Deputy Commissioner for said Division is changed to Director, Division of Marine and Transportation Rulings.

The title of the Deputy Commissioner, Division of Technical Services, is changed to Director, Division of Technical Services.

The designation of the Division of Appraisement Administration is changed to Division of Appraisement and Collections, and the title of the Deputy Commissioner for said Division is changed to Director, Division of Appraisement and Collections.

The designation of the Division of Collector's Operations is changed to Division of Inspection and Control and the title of the Deputy Commissioner for said Division is changed to Director, Division of Inspection and Control.

The order shall become effective on January 1, 1966.

(31 FR 228, 1/7/66)

JAMES POMEROY HENDRICK,
Acting Assistant Secretary of the Treasury.

(T.D. 72-41)

Treasury Department Order No. 165-19, Amendment 1

Changes in titles and changes in designation of certain divisions in the Bureau of Customs

Department of the Treasury
Washington, D.C., January 20, 1972.

By virtue of the authority vested in the Secretary of the Treasury, and pursuant to authorization given to me by Treasury Department Order No. 190, Revision 7 (34 F.R. 15846), the designations of divisions within the Office of Regulations and Rulings and the titles of the Directors of those divisions shall be as follows:

The Division of Classification and Value, under the direct supervision of the Director, Division of Classification and Value.

The Division of Entry Procedures and Penalties, under the direct supervision of the Director, Division of Entry Procedures and Penalties.

The Division of Carriers, Drawback and Bonds, under the direct supervision of the Director, Division of Carriers, Drawback and Bonds.

The Division of Regulations, under the direct supervision of the Director, Division of Regulations.

Treasury Department Order No. 165-19 dated December 29, 1965, is hereby amended to the extent that it is inconsistent with the foregoing.

This order shall be effective on January 31, 1972.

(37 FR 1496, 1/29/72)

EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

(T.D. 72-320)

Treasury Department Order No. 165-19, Amendment 2

Changes in designation of certain divisions in the Bureau of Customs

Department of the Treasury,
Washington, D.C., November 15, 1972.

By virtue of the authority vested in the Secretary of the Treasury, and pursuant to authorization given to me by Treasury Department Order No. 190, (Revision 8) (September 1, 1972) 37 F.R. 18572 (1972), the following changes are hereby made in the designations of divisions in the Bureau of Customs:

The designation of the Division of Technical Services is changed to Technical Services Division.

The designation of the Division of Appraisement and Collects is changed to Appraisement and Collections Division.

The designation of the Division of Inspection and Control is changed to Inspection and Control Division.

The designation of the Division of Classification and Value is changed to Classification and Value Division.

The designation of the Division of Entry Procedures and Penalties is changed to Entry Procedures and Penalties Division.

The designation of the Division of Carriers, Drawback and Bonds is changed to Carriers, Drawback and Bonds Division.

The designation of the Division of Regulations is changed to Regulations Division.

Treasury Department Order No. 165-19 dated December 29, 1965, (T.D. 66-3, 31 F.R. 228), as amended by T.D. 72-41 (37 F.R. 1496), is hereby amended to the extent that it is inconsistent with the foregoing.

This order shall take effect upon October 1, 1972.

(37 FR 25060, 11/25/72)

EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

(T.D. 69-62)

Treasury Department Order No. 165-21 (Revision 1)

Delegation to the Commissioner of Customs of certain functions under the Customs Convention on the International transport of goods under cover of TIR carnets

Treasury Department,
Washington, D.C. February 17, 1969.

(1) By virtue of authority vested in the Secretary of the Treasury by Executive Order No. 11450 dated January 18, 1969 (34 F.R. 919), and pursuant to authorization provided by Treasury Department Order No. 190, Rev. 5 (33 F.R. 5811), the Commissioner of Customs is hereby designated to take all necessary action required of the United States under section 1 of Article 5 of the Customs Convention on the international transport of goods under cover of TIR carnets (TIR Convention) to which the

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United States Senate gave its consent on March 1, 1967, and shall exercise his authority hereunder subject to the conditions set forth in section 2 of said Article 5.

(2) Treasury Department Order No. 165-21, differing in text but not is substance, is hereby rescinded.

(34 FR 2616, 2/26/69)

MATTHEW J. MARKS,
Acting Assistant Secretary of the Treasury.

(T.D. 69-69)

Treasury Department Order No. 165-22

Rates Fixed for Reimbursable Services of Customs Officers and Employees in The Virgin Islands

Treasury Department,
Washington, D.C., February 26, 1969.

Under authority vested in the Secretary of the Treasury by section 36 of the Act of June 22, 1936, 49 Stat. 1816 (48 U.S.C. 1406i), to fix the compensation of officers and employees appointed for the administration of the customs laws in the Virgin Islands of the United States and pursuant to authorization provided by Treasury Department Order No. 190, Revision 5 (33 F.R. 5811), it is hereby ordered that:

1. The rates of extra compensation fixed under section 5 of the Act of February 13, 1911, 36 Stat. 901, as amended (19 U.S.C. 267), for services for which extra compensation would be payable under the Act or under section 451 of the Tariff Act of 1930, as amended (19 U.S.C. 1451), and the regulations thereunder for services performed in connection with the administration of the customs laws of the United States shall apply to customs officers and employees appointed for the administration of the customs laws in the Virgin Islands of the United States.

2. Payment to customs officers and employees in the Virgin Islands for extra compensation shall be made from the Virgin Island Trust Fund. Collections from parties in interest for extra compensation will be made by the Government of the Virgin Islands under authority of its local laws.

3. The application of the rates fixed under 19 U.S.C. 267 to the Virgin Islands customs officers and employees will be subject to the regulations, decisions, directions for assignment and control of personnel, and the accounting procedures that are applicable to customs officers other than those in the Virgin Islands.

4. This order shall become effective on April 6, 1969, and shall apply to reimbursable services performed on and after that date.

Notices that the action taken by this Order was proposed were published in the Federal Register of July 20, 1967 (32 F.R. 10670, and December 31, 1968 (33 F.R. 20056).

(34 FR 3859, 3/5/69)

MATTHEW J. MARKS,
Acting Assistant Secretary of the Treasury.

(T.D. 73-132)

Treasury Department Order No. 165-23

Designation as United States Customs Service

Department of the Treasury.
Washington, D.C., April 4, 1973.

By virtue of the authority vested in me as Secretary of the Treasury, it is hereby ordered that:

1. The Bureau of Customs is designated the United States Customs Service, effective August 1, 1973.

2. As appropriate, all regulations, rules, orders, decisions, forms, and other Customs and Treasury documents are amended to conform to this order but existing supplies of these materials shall continue to be used without change until they are exhausted.

3. No action taken pursuant to this designation shall be invalid by reason of the fact that any statute or regulation provides or indicates that the action should have been taken under a different name.

(38 FR 13037, 5/18/73)

GEORGE P. SCHULTZ,
Secretary of the Treasury.

■ (T.D. 82–118)

Treasury Department Order No. 165–24

Regional Reorganization of the Customs Service

Date: June 18, 1982.

Pursuant to Reorganization Plan No. 1 of 1965 (30 FR 7035), Reorganization Plan No. 26 of 1950 (3 CFR, Ch. III), section 1 of the Act of August 1, 1914, as amended, 38 Stat. 623 (19 U.S.C. 2), and Executive Order No. 10289, September 17, 1951 (3 CFR, Ch. II), Treasury Department Order 165–17, as amended, is hereby amended by reorganizing the regional management structure of the U.S. Customs Service from nine to seven regions, as follows:

1. Region III, headquartered in Baltimore, Maryland is merged with Region I, headquartered in Boston, Massachusetts. The new Region I, designated as the *Northeast Region*, will be headquartered in Boston.

2. Region VIII, headquartered in San Francisco, California is merged with Region VII, headquartered in Los Angeles, California. The new Region VI, designated as the *Pacific Region* will be headquartered in Los Angeles.

3. Region II, headquartered in New York, New York remains Region II and is designated the *New York Region*.

4. Region IV, headquartered in Miami, Florida is redesignated as Region III, the *Southeast Region*.

5. Region V, headquartered in New Orleans, Louisiana is redesignated as Region IV, the *South Central Region*.

6. Region VI, headquartered in Houston, Texas is redesignated as Region V, the *Southwest Region*.

7. Region IX, headquartered in Chicago, Illinois is redesignated as Region VII, the *North Central Region*.

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It is further ordered that the regional headquarters offices presently located in Baltimore, Maryland and San Francisco, California, be abolished.

This Order is effective on September 30, 1982.

Donald T. Regan,
Secretary of the Treasury.

Treasury Department Order No. 165–25

Delegation of Authority to the Commissioner of Customs to Prescribe Regulations

Dated: August 5, 1982.

By virtue of the authority vested in the Secretary of the Treasury by Reorganization Plan No. 26 of 1950 and pursuant to the authority delegated to me as Assistant Secretary (Enforcement and Operations), by Treasury 101–5, notwithstanding the provisions of paragraph 1(a) of Treasury Department Order No. 165, Revised (T.D. 53654), there is hereby delegated to the Commissioner of Customs, authority to prescribe regulations relating to §§ 4.22, 4.81a(b), 4.93(b)(1) and (b)(2), 4.94(b), and 10.59(f), Customs Regulations (19 CFR 4.22, 4.81a(b), 4.93 (b)(1) and (b)(2), 4.94(b), and 10.59(f).

John M. Walker, Jr.,
Assistant Secretary, (Enforcement and Operations).

(T.D. 69-126)

CUSTOMS DELEGATION ORDER NO. 1 (REVISION 1) AMENDED

Performance of functions in the United States Customs Service

Department of the Treasury,
Office of the Commissioner of Customs,
Washington, D.C., May 20, 1969.

1. By virtue of the authority vested in me by Treasury Department Order No. 165, Revised (T.D. 53654, 19 F.R. 7241), as amended, the following officers in the headquarters office of the United States Customs Service are hereby authorized to make decisions and perform functions as follows:

A. Director, Office of Regulations and Rulings. Decisions with respect to any claim (including claim for liquidated damages), fine, or penalty (including forfeiture) now delegated to the Commissioner of Customs by paragraph (h) of Treasury Department Order No. 165, Revised, as amended (supra), decisions with respect to appeals from denials of requests for information under 5 U.S.C. 552, decisions with respect to appeals from denials of requests for amendment of records under 5 U.S.C. 552a, decisions denying or approving requests for extension of the time for the submission of comments on proposed amendments to the Customs Regulations, decisions with respect to the application of decisions of the United States Customs Court and the United States Court of Customs and Patent Appeals adverse to the Government, and decisions and functions relating to all matters in which authority also is delegated by this Order to the Director,

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sence or disability of the Commissioner of Customs, or when there is a vacancy in such office:

1. The Deputy Commissioner of Customs.
2. The Assistant Commissioner (Border Operations).
3. The Assistant Commissioner (Commercial Operations).
4. Comptroller.
5. Assistant Commissioner (Management Integrity)

By virtue of authority vested in me by said Treasury Department Order No. 129 (Revision No. 2), and Treasury Department Order No. 165, Revised (T.D. 53654; 19 FR 7241), there is hereby delegated to the Regional Commissioners of Customs, District Directors of Customs, and Port Directors of Customs, in the event of an enemy attack on the continental United States, authority to perform any function of the Commissioner of Customs which is necessary to insure continuous performance of essential functions otherwise assigned to such officers. This delegation of authority will remain in effect until notice has been received from proper authority that it has been terminated.

This order supersedes Customs Delegation Order No. 60, dated January 6, 1981 (T.D. 81-8;46 FR 2765).

Dated: September 15, 1981

William von Raab,
Commissioner of Customs

(T.D. 82-142)

Customs Delegation Order No. 64

Order of the Commissioner of Customs Delegating Authority To Conduct On-site Inspections of Laboratories Operated by Customs-approved Public Gaugers.

Dated: July 26, 1982.

By virtue of the authority vested in me by Treasury Department Order No. 165, Revised (T.D. 53654, 19 FR 7241), as amended, I hereby delegate to the Director of the Technical Services Division the authority to conduct on-site inspections of commercial laboratories operated by Customs-approved public gaugers. The Director of the Technical Services Division may redelegate this authority to the Directors of the Customs Field Laboratories.

This delegation of authority does not preclude a Customs district director from conducting additional checks, audits, or investigations to verify the gauging operations in his district.

William von Raab,
Commissioner of Customs.

(T.D. 82-183)

Customs Delegation Order No. 65

Customs Establishes Order of Succession of Persons To Act as Commissioner of Customs

Dated: September 28, 1982.

By virtue of the authority vested in me by Treasury Department Order No. 129, Revision No. 2, dated April 22, 1955, (20 FR 2875), it is hereby ordered that the following officers of the U.S. Customs Service, in the order of succession enumerated, shall act as Commissioner of Customs, in the event of an enemy attack or during the absense or disability of the Commissioner of Customs, or when there is a vacancy in such office:

1. The Deputy Commissioner of Customs.
2. The Assistant Commissioner (Enforcement).
3. The Assistant Commissioner (Inspection and Control).
4. The Assistant Commissioner (Commercial Operations).
5. The Deputy Commissioner of Customs for International Affairs.
6. The Comptroller.
7. The Assistant Commissioner (Internal Affairs).

By virtue of authority vested in me by said Treasury Department Order No. 129 (Revision No. 2), and Treasury Department Order No. 165, Revised (T.D. 53654, 19 FR 7241) there is hereby delegated to the Regional Commissioners of Customs, District Directors of Customs, and Port Directors of Customs, in the event of an enemy attack on the continental United States, authority to perform any function of the Commissioner of Customs which is necessary to insure continuous performance of essential functions otherwise assigned to such officers. This delegation of authority will remain in effect until notice has been received from proper authority that it has been terminated.

This order supersedes Customs Delegation Order No. 63, dated September 15, 1981, (T.D. 81-250, 46 FR 46738).

William von Raab,
Commissioner of Customs.

(T.D. 82-201)

Customs Delegation Order No. 66

Delegation of Authority To Prescribe Certain Customs Regulations

Dated: October 13, 1982.

By virtue of authority vested in me by Treasury Department Order No. 165-25, dated August 5, 1982, (47 FR 37993), I hereby delegate to the Assistant Commissioner (Commercial Operations), with the right to redelegate, the authority to prescribe regulations relating to sections 4.22, 4.81a(b), 4.93 (b)(1) and (b)(2), 4.94(b), and 10.59(f), Customs Regulations (19 CFR 4.22, 4.81a(b), 4.93 (b)(1) and (b)(2), 4.94(b), and 10.59(f).

William von Raab,
Commissioner of Customs.

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chorage at which cargo is to be unladen and until all passengers have been landed from the vessel.[2]

(3) Every person permitted to go on board or to leave without the consent of a Customs officer under the provisions of this paragraph shall be subject to Customs and quarantine regulations.

(4) The master of any vessel shall not authorize the boarding or leaving of his vessel by any person in violation of this paragraph.

(d) A district director, in his discretion may issue a cutter pass on Customs Form 3093 to permit the holder to board an incoming vessel after it has been inspected by the quarantine authorities and taken in charge by an officer of the Customs, as follows: (1) To persons on official business; (2) to news reporters, newspaper photographers, photographers of established motion-picture companies, and broadcasters of established radio broadcasting companies; and (3) in cases of special exigency in which the district director is satisfied as to the urgent need for the boarding and that its allowance will not result in undue interference with the performance of official business. **[TD 51575, 53816]**

(e) No person in charge of a tugboat, rowboat, or other vessel shall bring such conveyance alongside an incoming vessel heretofore described and put on board thereof any person, except as authorized by law or regulations.

(f) Reserved **[T.D. 82–145.]**

(g) Term cutter and dock passes, for a period of not to exceed one year, may be issued in the discretion of the district director, to persons on official business and to duly accredited news reporters and newspaper photographers. Passes are not transferable and shall be forfeited upon presentation by others than those to whom issued. (Sec. 9, 22 Stat. 189, as amended, secs. 1-3, 31 Stat. 58, as amended; 46 U.S.C. 158, 163) **[TD 53816.]**

§ 4.2 Reports of arrival of vessels.

(a) The report of arrival required by section 433, Tariff Act of 1930,[3] shall be made by any means of communication to the district director or to a Customs officer assigned to board the vessel. **[BMIN/BM 212, 3/16/39.]**

(b) For the purposes of this part, the time of arrival of a vessel shall be that time when she first comes to rest, whether at anchor or at a dock, in any harbor within the Customs territory of the United States. **[BMIN/BM 184, 10/12/38]**

(c) In the case of a vessel described in section 441(3), Tariff Act of 1930, as amended,[4] the report of articles subject to entry shall be made in accordance with the provisions of Subpart B of Part 148 of this chapter to the Customs officer assigned to board the vessel. (See § 4.1(c).) **[TDs 53606, 73–27]**

(d) In the case of vessels described in section 441(4), Tariff Act of 1930, as amended,[4] the report may be filed by either the master, owner, or agent, and shall be in the form and give the information required by that statute, except that the report need not be under oath. A derelict vessel shall be considered one in distress and any person bringing it into port may report its arrival. **[TDs 6603, 53336]**

(e) The report of baggage and merchandise on a vessel within the purview of section 441(2), Tariff Act of 1930, as amended,[4] shall be made as provided for in that section and shall be in addition to the required report of arrival. (Secs. 433, 441, 486, 46 Stat. 711, 712, as amended, 725, as amended; 19 U.S.C. 1433, 1441, 1486)

§ 4.3 Vessels required to enter.

(a) Except as specified in section 441, Tariff Act of 1930, as amended,[5] R.S. 2792,[7] R.S. 2793, as amended,[6]

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[2] "It shall not be lawful for the master of any such steamship or other vessel,* not in distress, after the arrival of the vessel within any collection district of the United States, to allow any person or persons, except a pilot, officer of the customs, or health officer, agents of the vessel and consuls, to come on board of the vessel, or to leave the vessel, until the vessel has been taken in charge by an officer of the customs, nor, after charge so taken, without leave of such officer, until all the passengers, with their baggage, have been duly landed from the vessel. * * *" (46 U.S.C. 158)

"The Secretary of the Treasury is authorized and directed to prescribe from time to time and enforce regulations governing the boarding of vessels arriving at the seaports of the United States, before such vessels have been properly inspected and placed in security, and for that purpose to employ any of the officers of that department. Each person violating such regulations shall be subject to a penalty of not more than $100 or imprisonment not to exceed six months, or both, in the discretion of the court. This section shall be construed as supplementary to section 158 and section 708 of this title." (46 U.S.C. 163 Sec. 102, Reorg. Plan No. 3 of 1946, 3 CFR, 1946 Supp., Ch. IV)

"Whoever, not being in the United States service, and not being duly authorized by law for the purpose, goes on board any vessel about to arrive at the place of her destination, before her actual arrival, and before she has been completely moored, shall be fined not more than $200 or imprisoned not more than six months, or both.

"The master of such vessel may take any such person into custody, and deliver him up forthwith to any law enforcement officer, to be by him taken before any committing magistrate, to be dealt with according to law." (18 U.S.C. 2279)

"If, within twenty-four hours after the arrival of any vessel at any port in the United States, any person, then being on board such vessel, solicits any seaman to become a lodger at the house of any person letting lodgings for hire, or takes out of such vessel any effects of any seaman, except under his personal direction, and with the permission of the master, he shall, for every such offense, be punishable by a fine of not more than $50, or by imprisonment for not more than three months. This section shall apply to vessels of the United States engaged in the foreign trade and to foreign vessels." (46 U.S.C. 703)

* A vessel from a noncontiguous foreign place carrying steerage passengers.

[3] "Within twenty-four hours after the arrival of any vessel from a foreign port or place, or of a foreign vessel from a domestic port, or of a vessel of the United States carrying bonded merchandise, or foreign merchandise for which entry has not been made, at any port or place within the United States at which such vessel shall come to, the master shall, unless otherwise provided by law, report the arrival of the vessel at the nearest customhouse, under such regulations as the Secretary of the Treasury may prescribe." (Tariff Act of 1930, sec. 433, 19 U.S.C. 1433)

"* * * For the purposes of sections 432, 433, 434, 448, 585, and 586 of this Act, any vessel which has visited any hovering vessel shall be deemed to arrive or have arrived, as the case may be, from a foreign port or place." (Tariff Act of 1930, sec. 401(n), as amended, 19 U.S.C. 1432a)

"The term 'hovering vessel' means any vessel which is found or kept off the coast of the United States within or without the customs waters, if, from the history, conduct, character, or location of the vessel, it is reasonable to believe that such vessel is being used or may be used to introduce or promote or facilitate the introduction or attempted introduction of merchandise into the United States in violation of the laws respecting the revenue * * *." (Tariff Act of 1930, sec. 401(n), as amended, 19 U.S.C. 1401(n))

"Every master who fails to make the report or entry provided for in section 433, 434, or 435 of this Act shall, for each offense, be liable to a fine of not more than $1,000 and, if the vessel have, or be discovered to have had, on board any merchandise (sea stores excepted), the importation of which into the United States is prohibited, or any spirits, wines, or other alcoholic liquors, such master shall be subject to an additional fine of not more $2,000 or to imprisonment for not more than one year, or to both such fine and imprisonment * * *" (Tariff Act of 1930, sec. 436, as amended, 19 U.S.C. 1436)

"Report of the arrival of a vessel of less than 5 net tons in the United States from a contiguous country otherwise than by sea is not required by section 433, Tariff Act of 1930. For the reporting requirements applicable with respect to such vessels, see § 5.1 of this chapter."

[4] See footnote 5 to § 4.3.

[5] "The following vessels shall not be required to make entry at the customhouse:

"(1) Vessels of war and public vessels employed for the conveyance of letters and dispatches and not permitted by the laws of the nations to which they belong to be employed in the transportation of passengers or merchandise in trade;

"(2) Passenger vessels making three trips or oftener a week between a port of the United States and a foreign port, or vessels used exclusively as ferryboats, carrying passengers, baggage, or merchandise: *Provided*, That the master of any such vessel

[Footnotes continued on next page]

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or as otherwise specified in this part,[8a] every American vessel arriving in the United States from a foreign port or place and every foreign vessel[9] arriving at a port in the United States from another such port or from a foreign port or place shall make entry[10] at the customhouse within 48 hours after arrival.[11] **[TDs 47192, 47843, 50780(4), 51912; 53538; 53606; BMIN/BMs 212, 3/16/39; 406, 10/15/41, MCL 21, 10/23/42.]**

(b) For the purposes of this part the time of departure of a vessel shall be that time when she gets under way on her outward voyage and proceeds on the voyage without thereafter coming to rest in the harbor from which she is going. (R.S. 2793, as amended, secs. 434, 435, 441, 46 Stat. 711, as amended, 712, as amended; 19 U.S.C. 288, 1434, 1435, 1441, 46 U.S.C. 111)

§ 4.4 Panama Canal; report of arrival required.

Vessels which merely transit the Panama Canal without transacting any business there shall be required to report their arrival because of such transit. The report of arrival shall be made in accordance with section 4.2(a) of this part. **[TDs 50620, TD 79-276, BMIN/BM 441 1/23/42.]**

§ 4.5 Government vessels.

(a) No report of arrival or entry shall be required of any vessel owned by, or under the complete control and management of, the United States or any of its agencies, if such vessel (1) is manned wholly by members of the uniformed services of the United States, by personnel in the civil service of the United States, or by both, and (2) is transporting only property of the United States or passengers traveling on official business of the United States, or is in ballast. However, the master or commander of each such vessel arriving from abroad shall file a declaration as provided for in § 148.72 of this chapter and, if any cargo or passengers are on board, a manifest, in duplicate, which shall include any cargo and a list of any passengers and their baggage, specifying the number and description of the pieces of baggage belonging to each passenger. The original of each manifest required under this paragraph shall be filed with the district director within 48 hours after the arrival of the vessel. The other copy shall be made available for use by the discharging inspector at the pier. **[TDs 47389, 53336, 54029, 73-27, 74-103.]**

(b) The arrival of every vessel owned or controlled and manned as described in paragraph (a) of this section but transporting other property or passengers, and every vessel so owned or controlled but not so manned, whether in ballast or transporting cargo or passengers, shall be reported in accordance with § 4.2 and the vessel shall be entered in accordance with § 4.9.

(c) Every vessel owned by, or under the complete control and management of, any foreign nation shall be exempt from or subject to the laws relating to report of arrival and entry under the same conditions as a vessel owned or controlled by the United States. (Sec. 441(1), 46 Stat. 712; 19 U.S.C. 1441(1))

§ 4.6 Departure or unlading before report or entry.

(a) The provisions of section 585, Tariff Act of 1930, as amended,[13] apply to foreign as well as American vessels, but shall not be applied to a vessel merely passing through waters within the limits of a Customs district in the ordinary course of her voyage. **[TD 47843: The Appollon, 9 Wheat 362: the Javirena, 67 Fed 152.]**

(b) The "limits of any Customs district" as used herein are those defined by § 101.1(b) of this chapter, including the marginal waters to the 3-mile limit on the seaboard and the waters to the boundary line on the northern and southern boundaries. (Sec. 585, 46 Stat. 749, as amended; 19 U.S.C. 1585) **[Cunard S. S. Co. v. Mellon, 262, U.S. 100; TD 77-241.]**

[Footnotes continued from last page]
shall be required to report such baggage and merchandise to the collector within twenty-four hours after arrival.

"(3) Licensed yachts or undocumented American pleasure vessels not engaged in trade nor in any way violating the customs or navigation laws of the United States and not having visited any hovering vessel: *Provided*, That the master of any such vessel which has on board any article required by law to be entered shall be required to report such article to the collector within twenty-four hours after arrival."

"(4) Vessels arriving in distress or for the purpose of taking on bunker coal, bunker oil, sea stores, or ship's stores and which shall depart within twenty-four hours after arrival without having landed or taken on board any passengers, or any merchandise other than bunker coal, bunker oil, sea stores, or ship's stores: *Provided*, That the master, owner, or agent of such vessel shall report under oath to the collector the hour and date of arrival and departure and the quantity of bunker coal, bunker oil, sea stores, or ship's stores taken on board; and

"(5) Tugs enrolled and licensed to engage in the foreign and coasting trade in the northern, northeastern, and northwestern frontiers when towing vessels which are required by law to enter and clear. (Tariff Act of 1930, sec. 441, as amended; 19 U.S.C. 1441)

[7] "Vessels used exclusively as ferryboats carrying passengers, baggage, and merchandise, shall not be required to enter and clear, nor shall the masters of such vessels be required to present manifests, or to pay entrance or clearance fees, or fees for receiving or certifying manifests, but they shall, upon arrival in the United States, be required to report such baggage and merchandise to the proper officer of the customs according to law." (46 U.S.C. 110)

"Any passenger vessel engaged triweekly or oftener in trade between ports of the United States and foreign ports shall be exempt from entrance and clearance fees while such service triweekly or oftener is maintained." (46 U.S.C. 112)

[8] "Enrolled or licensed vessels engaged in the foreign and coasting trade on the northern, northeastern, and northwestern frontiers of the United States, departing from or arriving at a port in one district to or from a port in another district, and also touching at intermediate foreign ports, shall not thereby become liable to the payment of entry and clearance fees, as if from or to foreign ports; but such vessel shall, notwithstanding, be required to enter and clear: except that when such vessels are on such voyages on the Great Lakes and touch at foreign ports for the purpose of taking on bunker fuel only, they may be exempted from entering and clearing under such rules and regulations as the Secretary of the Treasury may prescribe, notwithstanding any other provisions of law: *Provided*, That this exception shall not apply to such vessels if, while at such foreign port, they land or take on board any passengers, or any merchandise other than bunker fuel, receive orders, discharge any seamen by mutual consent, or engage any seaman to replace those discharged by mutual consent, or transact any other business save that of taking on bunker fuel." (19 U.S.C. 288)

[8a] No entry is required for a vessel of less than 5 net tons which arrives in the United States from a contiguous country otherwise than by sea. For the reporting requirements applicable with respect to such vessels, see § 5.1 of this chapter.

[9] Every undocumented vessel of 5 net tons or over owned by an alien, whether or not such alien is a resident of the United States, is a foreign vessel.

[10] "Whenever, under any provision or provisions of any statute of the United States, it is made the duty of the masters of vessels to make entry and clearance of same, it shall be lawful for such duties to be performed by any licensed deck officer or purser of such vessel; and when such duties are performed by a licensed deck officer or purser of such vessel, such acts shall have the same force and effect as if performed by masters of such vessels: *Provided*, That nothing herein contained shall relieve the master of any penalty or liability provided by any statute relating to the entry or clearance of vessels." (46 U.S.C. 91a)

"* * * Every master who presents a forged, altered, or false document or paper on making entry of a vessel as required by section 434 or 435 of this Act, knowing the same to be forged, altered or false and without revealing the fact, shall, in addition to any forfeiture to which in consequence the vessel may be subject, be liable to a fine of not more than $5,000 nor less than $50 or to imprisonment for not more than two years, or to both such fine and imprisonment." (Tariff Act of 1930, sec. 436, as amended; 19 U.S.C. 1436)

[11] See § 4.2(b)

[13] "If any vessel or vehicle from a foreign port or place arrives within the limits of any collection district and departs or attempts to depart, except from stress of weather or other necessity, without making a report or entry under the provisions of this chapter, or if any merchandise is unladen therefrom before such report or entry, the master of such vessel shall be liable to a penalty of $5,000, and the person in charge of such vehicle shall be liable to a penalty of $500, and any such vessel or vehicle shall be forfeited, and any officer of the customs may cause such vessel or vehicle to be arrested and brought back to the most convenient port of the United States." (Tariff Act of 1930, sec. 585, as amended; 19 U.S.C. 1585)

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(d)(2)(ii) of this section, liquidation of the vessel repair entry shall be suspended further until the regional commissioner notifies the party who filed the petition of the decision on the petition. Following notification of the Headquarters decision to the party who filed the petition, the vessel repair liquidation unit shall promptly initiate liquidation of the entry in accordance with that decision even if a supplemental petition for review is filed.

(e) *Liquidation of vessel repair entries, time limits.* If evidence of cost is available and the appropriate vessel repair liquidation unit receives written notification from the master, owner, or operator of the vessel, or their authorized agent, that an application for relief will not be filed, the vessel repair liquidation unit promptly shall initiate liquidation of the entry. In all other cases in which the evidence of cost is available, the entry may be liquidated 60 days after arrival of the vessel, or at the expiration of any extension of time granted under paragraph (b)(2)(ii) of this section to furnish evidence of cost, unless an application for relief is filed timely as provided in paragraph (d)(1)(ii) of this section. If an application for relief is filed timely, the vessel repair entry may be liquidated 30 days after the date of the written notice to the party who filed the application for relief, as provided in paragraph (d)(1)(v), unless a petition for review is filed timely under paragraph (d)(2)(ii) of this section. If a petition for review is filed timely, the vessel repair entry may be liquidated after the date of the notification of the decision on the petition to the party who filed the petition even though a supplemental petition for review is filed.

(f) *Protests.* Following liquidation of an entry, a protest under Part 174 of this chapter may be filed against the decision to treat an item or a repair as dutiable under paragraph (a) of this section.

(g) *Penalties.* (1) *Failure to report, enter, or pay duty.* If the owner or master of a vessel subject to the provisions of paragraph (a) of this section willfully or knowingly neglects or fails to report, make entry, and pay duties as required, or if he makes any false statement in respect of the purchases or repairs described in this section without reasonable cause to believe the truth of the statements, or aids or procures the making of any false statement as to any material matter without reasonable cause to believe the truth of the statement, the vessel, with its tackle, apparel, and furniture, or a monetary amount up to the value thereof as determined by the Secretary of the Treasury, to be recovered from the owner, shall be subject to seizure and forfeiture.

(2) *False declaration.* If any person required to file a declaration on Customs Form 226, by paragraph (b)(1) of this section, or to file an entry on Customs Form 226, by paragraph (b)(2) of this section, willfully and knowingly provides any false information, or willfully and knowingly omits any required information, that person shall be subject to the criminal penalties provided for in 18 U.S.C. 1001.

(R.S. 251, as amended, sections 466, 498, 514, 624, 46 Stat. 718, as amended, 728, as amended, 734, as amended, 759, 84 Stat. 1944 (19 U.S.C. 66, 1466, 1498, 1514, 1624)) **[T.D. 80-237.]**

§ 4.15 Fishing vessels touching and trading at foreign places.

(a) Before any vessel enrolled and licensed or licensed to engage in the fisheries shall touch and trade at a foreign port or place, the master shall obtain from the district director a permit on Customs Form 1379 to touch and trade.

When a fishing vessel departs from the United States and there is an intent to stop at a foreign port (1) to lade vessel equipment which was preordered, (2) to purchase and lade vessel equipment, or (3) to purchase and lade vessel equipment to replace existing vessel equipment, the master of the vessel must either clear for that foreign port or obtain a permit to touch and trade, whether or not the vessel will engage in fishing on that voyage.[28] Purchases of such equipment, whether intended at the time of departure or not, are subject to declaration, entry, and payment of duty pursuant to section 466 of the Tariff Act of 1930, as amended (19 U.S.C. 1466). The duty may be remitted if it is established that the purchases resulted from stress of weather or other casualty. **[TDs 42018, 77-28.]**

(b) Upon the arrival of a vessel enrolled and licensed or licensed for the fisheries which has put into a foreign port or place, the master shall report its arrival, make entry, and conform in all respects to the regulations applicable in the case of a vessel arriving from a foreign port.

(c) If a vessel which has been granted a permit to touch and trade arrives at a port in the United States, whether or not the vessel has touched at a foreign port or place, such permit shall forthwith be surrendered to the district director.

(d) No permit to touch and trade shall be issued to a vessel enrolled and licensed or licensed for the coasting trade and mackerel fishery which is departing on a foreign voyage to engage exclusively in a trade other than the fisheries. For such a voyage the vessel shall be registered and the master shall obtain clearance for the foreign port or place. (R.S. 4364, 4365; 46 U.S.C. 310, 311)

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[28] "Whenever any vessel, licensed for carrying on the fisheries, is intended to touch and trade at any foreign port, it shall be the duty of the master or owner to obtain permission for that purpose from the collector of the district where such vessel may be, previous to her departure, and the master of every such vessel shall deliver like manifests, and make like entries, both of the vessel and of the merchandise on board, within the same time, and under the same penalty, as are by law provided for vessels of the United States arriving from a foreign port." (46 U.S.C. 310)

"Whenever a vessel, licensed for carrying on the fisheries, is found within three leagues of the coast, with merchandise of foreign growth or manufacture, exceeding the value of $500, without having such permission as is directed by section 310 of this title, such vessel together with the merchandise of foreign growth or manufacture imported therein, shall be subject to seizure and forfeiture." (46 U.S.C. 311; see also 46 U.S.C. 325)

If such a vessel puts into a foreign port or place and only obtains bunkers, stores, or supplies suitable for a fishing voyage, it is not considered to have touched and traded there. Fish nets and netting are considered vessel equipment and not vessel supplies. (R.S. 251, as amended, R.S. 4364, secs. 466, 624, 46 Stat. 718, as amended, 759 (19 U.S.C. 66, 1466, 1624, 46 U.S.C. 310))

§ 4.16 Entry and clearance on board vessels.

(a) A master, owner, or agent of a vessel described in the Act of June 16, 1937,[29] who desires that arrival may be reported, entry made, and clearance obtained on board the vessel shall file with the district director of Customs an application on Customs Form 3171 and a bond on Customs Form 7567 in such penal sum as the district director of Customs deems sufficient but not less than $1,000, or the usual term bond on Customs Form 7569. **[TDs 49117, 51273, 68-247.]**

(b) If the application is approved, the collector of Customs or such Customs officer as may be designated by him shall receive the report of arrival and the entry of the vessel and grant it clearance on board the vessel.

(c) For the purposes of the said act the term "at night" shall include the hours from 5 p.m. of one day to 8 a.m. of the following day, and the term "holiday" shall include only national holidays. (50 Stat. 303; 19 U.S.C. 1435b)

§ 4.17 Vessels from discriminating countries.

The prohibition against imports in, and the penalty of forfeiture of, certain vessels from countries which discriminate against American vessels provided for in subsections 2 and 3 of paragraph J, section IV, Tariff Act of 1913, as amended by the act of March 4, 1915 (19 U.S.C. 130, 131), shall be enforced only in pursuance of specific instructions issued and published from time to time by the Secretary of the Treasury or such other officer as the Secretary may designate. (See also § § 4.20(c) and 159.42 of this chapter.) **[TDs 39057, 53336, 73-175.]**

Tonnage Tax and Light Money

§ 4.20 Tonnage taxes.

(a) Except as specified in § 4.21, a regular tonnage tax or duty[36] of 2 cents per net ton, not to exceed in the aggregate 10 cents per net ton in any 1 year, shall be imposed at each entry on all vessels which shall be entered in any port of the United States from any foreign port or place in North America, Central America, the West Indies, the Bahama Islands, the Bermuda Islands, Newfoundland, or the coast of South America bordering on the Caribbean Sea (considered to include the mouth of the Orinoco River), and regular tonnage tax of 6 cents per net ton, not to exceed 30 cents per net ton per annum, shall be imposed at each entry on all vessels which shall be entered in any port of the United States from any other foreign port. In determining the port of origin of a voyage to the United States and the rate of tonnage tax, the following shall be used as a guide: **[TDs 37618, 53336, 54364, 54819; BNGL 270, 4/7/25; 318, 10/12/32. BMIN/BM 373, 5/27/41. MCL 18, 9/11/42.]**

(1) When the vessel has proceeded in ballast from a port to which the 6-cent rate is applicable to a port to which the 2-cent rate applies and there has laden cargo or taken passengers, tonnage tax upon entry in the United States shall be assessed at the 2-cent rate.

(2) The same rate shall be applied in a case in which the vessel has transported cargo or passengers from a 6-cent port to a 2-cent port when all such cargo or passengers have been unladen or discharged at the 2-cent port, without regard to whether the vessel thereafter has proceeded to the United States in ballast or with cargo or passengers laden or taken on board at the 2-cent port.

(3) The 6-cent rate shall be applied when the vessel proceeds from a 2-cent port to a 6-cent port en route to the United States under circumstances similar to subparagraph (1) or (2) of this paragraph.

(4) If the vessel arrives in the United States with cargo or passengers taken at two or more ports to which different rates are applicable, tonnage tax shall be collected at the higher rate.

(b) The tonnage year shall be computed from the date of the first entry of the vessel concerned, without regard to the rate of the payment made at that entry, and shall expire on the day preceding the corresponding date of the following year.[37] **[TDs 6082, 51073.]**

(c) A vessel shall also be subject on every entry from a foreign port or place, whether or not regular tonnage tax is payable on the particular entry, to the payment of a special tonnage tax[38] and to the payment of light money[39] at the rates and under the circumstances specified in the following table: **[BN Gen. Ltr. 142, 5/5/17; TDs 22547, 53399, 75-110, 76-280, 82-145.]**

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[29] "In order to expedite the dispatch of vessels carrying passengers operating on regular schedules and arriving at night or on a Sunday or a holiday at a port in the United States at which such vessel is required by law to report arrival and make entry and from which it is required to obtain a clearance, the collector of customs, or any deputy collector of customs designated by him, if the vessel departs during the same night, Sunday, or holiday on which it arrives may, under such regulations as may be prescribed by the Secretary of Treasury, receive the report of arrival and entry of such vessel from and give clearance for such vessel to the master or other proper officer thereof on board such vessel: *Provided*, That bond, as prescribed in section 1451 of this title, is given to secure reimbursement to the Government for the compensation of, and expenses incurred by, such customs officers in performing such services, who shall be entitled to rates of compensation fixed on the same basis and payable in the same manner and upon the same terms and conditions as in the case of customs officers and employees assigned to lading or unlading at night or on Sunday or a holiday." (19 U.S.C. 1435b. Sec. 102, Reorg. Plan No. 3 of 1946, 3 CFR, 1946 Supp., Ch. IV)

[36] Upon vessels which shall be entered in the United States from any foreign port or place there shall be paid duties as follows: On vessels built within the United States but belonging wholly or in part to subjects of foreign powers, at the rate of thirty cents per ton; on other vessels not of the United States, at the rate of fifty cents per ton; and any vessel any officer of which shall not be a citizen of the United States shall pay a tax of fifty cents per ton.

"A tonnage duty of 2 cents per ton, not to exceed in the aggregate 10 cents per ton in any one year, is imposed at each entry on all vessels which shall be entered in any port of the United States from any foreign port or place in North America, Central America, the West Indies Islands, the Bahama Islands, the Bermuda Islands, or the coast of South America bordering on the Caribbean Sea, or Newfoundland, and a duty of 6 cents per ton, not to exceed 30 cents per ton per annum, is imposed at each entry on all vessels which shall be entered in any port of the United States from any other foreign port, not, however, to include vessels in distress or not engaged in trade.

"Upon every vessel not of the United States, which shall be entered in one district from another district, having on board goods, wares, or merchandise taken in one district to be delivered in another district, duties shall be paid at the rate of 50 cents per ton: *Provided*, That no such duty shall be required where a vessel owned by citizens of the United States, but not a vessel of the United States, after entering an American port, shall, before leaving the same, be registered as a vessel of the United States. On all foreign vessels which shall be entered in the United States from any foreign port or place, to and with which vessels of the United States are not ordinarily permitted to enter and trade, there shall be paid a duty at the rate of $2 per ton; and none of the duties on tonnage above-mentioned shall be levied on the vessels of any foreign nation if the President of the United States shall be satisfied that the discriminating or countervailing duties of such foreign nations, so far as they operate to the disadvantage of the United States, have been abolished. Any rights or privileges acquired by any foreign nation under the laws and treaties of the United States relative to the duty of tonnage on vessels shall not be impaired; and any vessel any officer of which shall not be a citizen of the United States shall pay a tax of 50 cents per ton." (46 U.S.C. 121)

[37] There may be five payments at the maximum (6-cent) and five at the minimum (2-cent) rate during a tonnage year, so that the maximum assessment of tonnage duty may amount to 40 cents per net ton for the tonnage year of a vessel engaged in alternating trade.

[38] See footnote 36.

[39] "A duty of 50 cents per ton, to be denominated 'light money', shall be levied and collected on all vessels not of the United States which may enter the ports of the United States. Such light money shall be levied and collected in the same manner and under the same regulations as the tonnage duties: *Provided*, That no such duty shall be required where a vessel owned by citizens of the United States, but not a vessel of the United States, after entering an American port, shall, before leaving the same, be registered as a vessel of the United States." (46 U.S.C. 128)

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Classes of vessels	Rate per net ton		
	Regular tax	Special tax	Light money
Vessels of the United States:			
1. Under provisional register, without regard to citizenship of officers	$0.02 or $0.06		
2. All others:			
(i) If all the officers are citizens	.02 or .06		
(ii) If any officer is not a citizen	.02 or .06	[1] $0.50	[1] $0.50
Undocumented vessels which are owned by citizens[2]	.02 or .06	.50	[3] .50
Foreign vessels:[3a]			
1. Of nations whose vessels are exempted from special tax or light money	.02 or .06		
2. Entering from a foreign port of place where vessels of the United States are not ordinarily permitted to enter and trade	.02 or .06	[4] 2.00	[4] .50
3. All others:			
(i) Built in the United States	.02 or .06	.30	.50
(ii) Not built in the United States	.02 or .06	.50	.50

[1] This does not apply on the first arrival of a vessel in a port of the United States from a foreign or intercoastal voyage if all the officers who are not citizens are below the grade of master and are filling vacancies which occurred on the voyage.

[2] This special tax and light money do not apply if the vessel is documented as a vessel of the United States before leaving the port.

[3] This does not apply if the vessel is under a certificate of protection and the owner or master files with the collector the oath required by 46 U.S.C. 129. An unrecorded bill of sale is not such a document as will exempt a vessel from the payment of light money under 46 U.S.C. 128, and the recording of such bill of sale after the arrival of the vessel is not sufficient to relieve it from the payment of the tax.

[3a] The following countries ordinarily do no permit vessels of the United States to enter and trade: Democratic Kampuchea (Cambodia); Democratic People's Republic of Korea (North Korea); and, the Socialist Republic of Vietnam.

[4] This is to be collected on each entry of a vessel from such a port or place.

(d) Tonnage tax shall be imposed upon a vessel even though she enters a port of the United States only for orders. **[TD 49523.]**

(e) The fact that a vessel passes through the Panama Canal does not affect the rate of tonnage tax otherwise applicable to the vessel. **[TD 79-276.]**

(f) For the purpose of computing tonnage tax, the net tonnage of a vessel stated in the vessel's marine document shall be accepted unless (1) such statement is manifestly wrong, in which case the net tonnage shall be estimated, pending admeasurement of the vessel, or the tonnage reported for her by any recognized classification society may be accepted, or (2) an appendix is attached to the marine document showing a net tonnage ascertained under the so-called "British rules" or the rules of any foreign country which have been accepted as substantially in accord with the rules of the United States, in which case the tonnage so shown may be accepted and the date the appendix was issued shall be noted on the tonnage tax certificate, Customs Form 1002, and on the master's oath, Customs Form 1300. For the purpose of computing tonnage tax on a vessel with a tonnage mark and dual tonnages, the higher of the net tonnages stated in the vessel's marine document or tonnage certificate shall be used unless the Customs officer concerned is satisfied by report of the boarding officer, statement or certificate of the master, or otherwise that the tonnage mark was not submerged at the time of arrival. Whether the vessel has a tonnage mark, and if so, whether the mark was submerged on arrival, shall be noted on Customs Form 1300 by the boarding officer. **[MCLs 8/7/42; 27, 12/15/42; TDs 68-216, 71-169.]**

(g) The decision of the Commissioner of Customs is final on any question of interpretation relating to the collection of tonnage tax or to the refund of such when collected erroneously or illegally, and any question of doubt shall be referred to him for instructions. (R.S. 4153, as amended, secs. 2, 4, 28 Stat. 743, as amended, R.S. 4154, as amended, 4219, as amended, 4225, as amended, 4131, as amended; 46 U.S.C. 77, 78, 79, 81, 83-83k, 121, 128, 221)

§ 4.21 Exemptions from tonnage taxes.

(a) Tonnage taxes and light money shall be suspended in whole or in part whenever the President by proclamation shall so direct. **[BNGL 270/25; BMIN/BM 373/41; TD 49523.]**

(b) A vessel shall not be liable to the payment of tonnage tax or light money merely because— **[TDs 53187(1), 53399.]**

(1) It comes into port for bunkers (including water), sea stores, or ship's stores; transacts no other business in the port; and departs within 24 hours after its arrival.

(2) It arrives in distress, even though required to enter.

(3) It is brought into port by orders of United States naval authorities and transacts no business while in port other than the taking on of bunkers, sea stores, or ship's stores.

(4) It is a vessel of war or other vessel which is owned by, or under the complete control and management of the United States or the government of a foreign country, and which is not carrying passengers or merchandise in trade or, if in ballast, which is not arriving from a foreign port during the usual course of its employment as a vessel engaged in trade. **[TD 53399.]**

(5) It is a yacht or other pleasure vessel not carrying passengers or merchandise in trade.

(6) It is engaged exclusively in scientific activities.

(7) It is engaged exclusively in laying or repairing cables.

(8) It is engaged in whaling or other fisheries, even though it may have entered a foreign port for fuel or sup-

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plies, if it did not carry passengers or merchandise in trade.

(9) It is a passenger vessel making three trips or more a week between a port of the United States and a foreign port.

(10) It is used exclusively as a ferry boat, including a car ferry.

(11) It is a tug under frontier enrollment and license, when towing vessels which are required to make entry.

(12) It is a vessel under frontier enrollment and license which has touched at an intermediate foreign port or ports during a coastwise voyage.

(13) It enters otherwise than by sea from a foreign port at which tonnage or lighthouse dues or equivalent taxes are not imposed on vessels of the United States.[44] **[TD 51912.]**

(14) [Reserved]

(15) It is a vessel entering directly from the Virgin Islands (U.S.), American Samoa, the islands of Guam, Wake, Midway, Canton, or Kingman Reef, or Guantanamo Bay Naval Station. **[TDs 51547, 55406, 72-264, 79-276.]**

(16) It is a vessel making regular daily trips between any port of the United States and any port in Canada wholly upon interior waters not navigable to the ocean, except that such a vessel shall pay tonnage taxes upon her first arrival in each calendar year.

(17) It is a vessel arriving at a port in the United States which, while proceeding between ports in the United States, touched at a foreign port under circumstances which would have exempted it from making entry under section 441(4), Tariff Act of 1930, as amended (19 U.S.C. 1441(4)), had it touched at a United States port. (Sec. 441, 46 Stat. 712, as amended, R.S. 4214, as amended, 4219, as amended, 4220, 2793, as amended, 2792, as amended, 4221, 4225, as amended, 4226, sec. 1, 39 Stat. 286, 36 Stat. 234, R.S. 4227; 19 U.S.C. 1441, 46 U.S.C. 103, 121-125, 128-130, 132, 135) **[TDs 75-206, TD 55406.]**

§ 4.22 Exemptions from special tonnage taxes.

Vessels of the following nations are exempted by treaties, Presidential proclamations, or orders of the Secretary of the Treasury from the payment of any higher tonnage duties than are applicable to vessels of the United States and are exempted from the payment of light money. **[TDs 50525, 51166, 51171, 51769, 52238, 52340, 52545, 52591, 53129, 54352, 55069, 55113, 55534, 56063, 56195, 56313, 56421, 56440, 56530, 56548, 66-11, 66-67, 66-106, 66-166, 66-235, 66-237, 66-264, 68-100, 70-21, 70-22, 70-112, 70-113, 70-117, 70-147, 70-156, 70-171, 70-204, 70-211, 70-234, 71-26, 71-80, 71-94, 72-254, 73-95, 73-123, 75-240, 76-279, 76-280, 77-3, 78-139, 78-157, 78-451, 79-134, 79-220, 79-258, ○ 79-304, 80-255, 81-71, 81-199, 81-261, 82-16.]**

Algeria.
Arab Republic of Egypt.
Argentina.
Australia.
Austria.
Bahamas, The.
Bangladesh.
Barbados.
Belgium.
Bermuda.
Bolivia.
Brazil.
Bulgaria.
Burma.
Canada.
Chile.
China, Republic of.
Colombia.
Costa Rica.
Cuba.
Cyprus.
Czechoslovakia.
Denmark (including the Faeroe Islands).
■ Dominica
Dominican Republic.
Ecuador.
El Salvador.
Estonia.
Ethiopia.
Fiji.
Finland.
France.
Gambia, The.
German Democratic Republic.
German Federal Republic.
Ghana.
Great Britain, (including the Cayman Islands).
Greece.
Greenland.
Guatemala.
Guinea, Republic of.
Guyana.
Haiti.
Honduras.
Iceland.
India.
Indonesia.
Iran.
Iraq.
Ireland (Eire).
Israel.
Italy.
Ivory Coast, Republic of.
Jamaica.
Japan.
Kenya.
Korea.
Kuwait.
Latvia.
Lebanon.
Liberia.
Libya.
Malaysia.
Malta.
Mauritius.
Mexico.
Monaco.
Morocco.
Nauru, Republic of.

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[44] "Vessel entering otherwise than by sea from a foreign port at which tonnage or lighthouse dues or other equivalent tax or taxes are not imposed on vessels of the United States shall be exempt from the tonnage duty of 2 cents per ton, not to exceed in the aggregate 10 cents per ton in any one year." (46 U.S.C. 132) This statute applies to a vessel arriving in the United States on a voyage otherwise than by sea from a port in the province of Ontario, Canada, only.

142 of this chapter, the duties thereon, if any, have been estimated and paid. **[TDs 52773, 73-175.]**

(b) When packages of merchandise bear marks or numbers which differ from those appearing on the Cargo Declaration, Customs Form 1302, of the importing vessel for the same packages and the importer or a receiving bonded carrier, with the concurrence of the importing carrier, makes application for their release under such marks or numbers, either for consumption or for transportation in bond under an entry filed therefor at the port of discharge from the importing vessel, the district director may approve the application upon condition that (1) the contents of the packages be identified with an invoice or transportation entry as set forth below and (2) the applicant furnish at his own expense any bonded cartage or lighterage service which the granting of the application may require. The application shall be in writing in such number of copies as may be required for local Customs purposes. Before permitting delivery of packages under such an application, the district director shall cause such examination thereof to be made as will reasonably identify the contents with the invoice filed with the consumption entry. If the merchandise is entered for transportation in bond without the filing of an invoice, such examination shall be made as will reasonably identify the contents of the packages with the transportation entry **[TD 77-255.]**

(c) If the district director determines that, in a port or portion of a port, the volume of cargo handled, the incidence of theft or pilferage, or any other factor related to the protection of merchandise in Customs custody requires such measures, he shall require as a condition to the granting of a permit to release imported merchandise that the importer or his agent present to the carrier or his agent a fully executed pickup order in substantially the following format, in triplicate, to obtain delivery of any imported merchandise: **[TD 71-39.]**

Pickup Order

____________________ is authorized to pick up the merchandise indicated below

(Trucker name)

COD __ Bank release __ Collect __

Broker Name and Authorized Signature (if applicable)

Marks and Numbers	Pcs.	Description of goods	Entry No.	Importing carrier and AWB Number or B/L Number	Signature and date of receiving carrier	Remarks

Delivered quantities verified ....

Customs officer badge No.

....

Date

The pickup order shall contain a duly authenticated customhouse broker's signature, unless it is presented by a person properly identified as an employee or agent of the ultimate consignee. When delivered quantities are verified by a Customs officer, he shall certify all copies of the pickup order, returning one to the importer or his agent and two to the carrier making delivery.

(d) When the provisions of paragraph (c) of this section are invoked by the district director and verification of delivered quantities by Customs is required, a permit to release merchandise shall be effective as a release from Customs custody at the time that the delivery of the merchandise covered by the pickup order into the physical possession of a subsequent carrier or an importer or the agent of either is completed under the supervision of a Customs officer, and only to the extent of the actual delivery of merchandise described in such pickup order as verified by such Customs officer. (Secs. 448, 505, 46 Stat. 714, 732; 19 U.S.C. 1448, 1505) **[TD 71-39.]**

§ 4.39 Stores and equipment of vessels and crews' effects; unlading or lading and retention on board.

(a) The provisions of § 4.30 relating to unlading under a permit on Customs Form 3171 are applicable to the unlading of articles, other than cargo or baggage, which have been laden on a vessel outside the Customs territory of the United States, regardless of the trade in which the vessel may be engaged at the time of unlading, except that such provisions do not apply to such articles which have already been entered. **[TDs 21324, 22433, 24340, 24497, 26864, 28321, 28855, 35824, 39340, 40934, 45231, 45690 (5), 48062, 50263 (1), 50380 (5), 53336.]**

(b) Any articles other than cargo or baggage landed for delivery for consumption in the United States shall be treated in the same manner as other imported articles.[75] A notation as to the landing of such articles, together with the number of the entry made therefor, shall be made on the vessel's store list, but such notation shall not subject the articles to the requirement of being included in a post entry to the manifest. **[TD 53336.]**

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[75] See footnote 58, § 4.30

(c) Bags or dunnage constituting equipment of a vessel may be landed temporarily and reladen on such vessel under Customs supervision without entry.

(d) Articles claimed to be sea or ships' stores which are in excess of the reasonable requirements of the vessel on which they are found shall be treated as cargo of such vessel.

(e) Under section 446, Tariff Act of 1930, district directors may permit narcotic drugs, except smoking opium, in reasonable quantities and properly listed as medical stores to remain on board vessels if satisfied that such drugs are adequately safeguarded and used only as medical supplies.

(f) Application for permission to transfer bunkers, stores or equipment as provided for in the proviso to section 446, Tariff Act of 1930, shall be made and the permit therefor granted on Customs Form 3171. (Secs. 432, 446, 46 Stat. 710, 713; 19 U.S.C. 1432, 1446)

§ 4.40 Equipment, etc., from wrecked or dismantled vessels.

Ship's or sea stores, supplies, and equipment of a vessel wrecked either in the waters of the United States or outside such waters, on being recovered and brought into a United States port, and like articles landed from a vessel dismantled in a United States port shall be subject to the same Customs treatment as would apply if the articles were landed from a vessel arriving in the ordinary course of trade. Parts of the hull and fittings recovered from a vessel which arrived in the United States in the course of navigation and was wrecked in the waters of the United States or was dismantled in this country are free of duties and import taxes, but if such articles are recovered from vessels outside the waters of the United States and brought into a United States port, they shall be treated as imported merchandise. (Sec. 446, 46 Stat. 713; 19 U.S.C. 1446) **[TDs 19181, 19220, 22433.]**

§ 4.41 Cargo of wrecked vessel.

(a) Any cargo landed from a vessel wrecked in the waters of the United States or on the high seas shall be subject at the port of entry to the same entry requirements and privileges as the cargo of a vessel regularly arriving in the foreign trade. In lieu of a Cargo Declaration, Customs Form 1302, to cover such cargo, the owner, underwriter (if the merchandise has been abandoned to him), or the salvor of the merchandise shall make written application for permission to enter the wrecked cargo, and any such applicant shall be regarded as the consignee of the merchandise for Customs purposes.[76] **[TDs 7554, 8028, 9598, 77–255.]**

(b) All such merchandise shall be taken into possession by the district director of the port in which it shall first arrive and be retained in his custody pending entry. If it is not entered by the person entitled to make entry, or is not disposed of pursuant to court order, it shall be subject to sale as unclaimed merchandise. **[TD 23155.]**

(c) If such merchandise is from a vessel which has been sunk in waters of the United States for 2 years or more and has been abandoned by the owner, any person who has salvaged the cargo shall be permitted to enter the merchandise in the district in which the vessel was wrecked free of duty upon the facts being established to the satisfaction of the district director at the port of entry.[77] Any other such merchandise is subject to the same tariff classification as like merchandise regularly imported in the ordinary course of trade. **[TD 11498.]**

(d) If the merchandise is libeled for salvage,[78] the district director shall notify the United States attorney of the claim of the United States for duties, and request him to intervene for such duties.

Passenger on Vessels

§ 4.50 Passenger lists.

(a) The master of every vessel arriving at a port of the United States from foreign territory and required to make entry, except a vessel arriving from Canada, otherwise than by sea, at a port on the Great Lakes, or their connections or tributary waters,[79] shall submit a passenger and crew list as required by § 4.7(a). If the vessel is arriving from noncontiguous foreign territory and is carrying steerage passengers, the additional information respecting such passengers required by Customs and Immigration Form I-418 shall be included therein. **[TDs 51107, 51547, 51901, 54267, 54820, 71–169.]**

(b) A passenger within the meaning of this part is any person carried on a vessel who is not connected with the operation of such vessel, her navigation, ownership, or business. (Sec. 9, 22 Stat. 189, as amended, sec. 431, 46 Stat. 710, as amended; 19 U.S.C. 1431, 46 U.S.C. 158) **[BNGL 117, 5/20/16, TD 82–145.]**

Foreign Clearances

§ 4.60 Vessels required to clear.

(a) Except as otherwise provided for in this section, every vessel bound for a foreign port or ports shall be

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[76] "* * * The underwriters of abandoned merchandise and the salvors of merchandise saved from a wreck at sea or on or along a coast of the United States may be regarded as the consignees." * * * (Tariff Act of 1930, sec. 483; 19 U.S.C. 1483)

[77] "Whenever any vessel laden with merchandise, in whole or in part subject to duty has been sunk in any river, harbor, bay, or waters subject to the jurisdiction of the United States, and within its limits, for the period of two years and is abandoned by the owner thereof, any person who may raise such vessel shall be permitted to bring any merchandise recovered therefrom into the port nearest to the place where such vessel was so raised free from the payment of any duty thereupon, but under such regulations as the Secretary of the Treasury may prescribe." (Tariff Act of 1930, sec. 310; 19 U.S.C. 1310)

[78] Salvors have an uncertain interest in the goods salved, dependent upon the decree of a competent tribunal, and have a presumptive right without such decree to possession of merchandise salved by them from abandoned wrecks. The salvors are entitled in either case to entry of derelict or wrecked goods. (Secs. 310, 483, 46 Stat. 690, 721; 19 U.S.C. 1310, 1483)

[79] "Notwithstanding any provision of law to the contrary, no collector of customs shall require a master or owner of a vessel arriving, otherwise than by sea, at a port or place in the United States on the Great Lakes, or their connecting or tributary waters, from a port or place in the Dominion of Canada to furnish a list of passengers on board such vessel." (60 Stat. 882)

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cleared[90] for a definite port or ports in the order of its itinerary, but an application to clear for a port or place for orders, that is, for instructions to masters as to destination of the vessel, may be accepted if the vessel is in ballast or if any cargo on board is to be discharged in a port of the same country as the port for which clearance is sought.

(b) The following vessels are not required to clear:

(1) A licensed yacht or undocumented American pleasure vessel not engaged in trade nor in any way violating the Customs or navigation laws of the United States.[90] **[TD 53606.]**

(2) Any vessel under frontier enrollment and license which during a voyage on the Great Lakes will touch at a foreign port only for taking on bunker fuel.[91] (See § 4.82.)

(3) A vessel exempted from entry by section 441, Tariff Act of 1930.[92] (See § 4.5.) **[TD 53336.]**

(4) A vessel of less than 5 net tons which departs from the United States to proceed to a contiguous country otherwise than by sea. **[TD 53538.]**

(c) Vessels which merely transit the Panama Canal without transacting any business there shall not be required to be cleared because of such transit. **[TD 79-276.]**

(d) In the event that departure is delayed beyond the second day after clearance, the delay shall be reported within 72 hours after clearance to the district director who shall note the fact of detention on the certificate of clearance and on the official record of clearance. When the proposed voyage is canceled after clearance, the reason therefor shall be reported in writing within 24 hours after such cancellation and the certificate of clearance and related papers shall be surrendered. **[TD 51049.]**

(e) No vessel shall be cleared for the high seas.[93]

§ 4.61 Requirements for clearance.

(a) Application for clearance for a vessel intending to depart for a foreign port shall be made by filing the oath, Customs Form 1300, and a General Declaration, Customs Form 1301, by or on behalf of the master at the customhouse. The master, licensed deck officer, or purser may appear in person to clear the vessel, or the required oaths, related documents, and other papers properly executed by the master or other proper officer may be delivered at the customhouse by the vessel agent or other personal representative of the master. Clearance shall be granted on Customs Form 1378. **[Bas v. Steele, Fed. Case No. 1088. TDs 830, 2795, 39308, 50462, 51912, 53775, 53799, 71-169.]**

(b) Before clearance is granted to a vessel bound to a foreign port, the district director shall verify compliance with the requirements in respect of the following matters which are more fully stated in the provisions of law or of these regulations indicated in the list: **[MCL 25/42, TD's 52675, 68-217, 69-210, 70-213, 73-250, 77-255.]**

(1) Accounting for inward cargo (§ 4.62).

(2) Outward Cargo Declarations; shippers export declarations (§ 4.63).

(3) Documentation (§ 4.64).

(4) Verification of nationality and tonnage (§ 4.65).

(5) Verification of inspection (§ 4.66).

(6) Inspection under State laws.[94]

(7) Closed ports or places (§ 4.67).

(8) Crew; passengers (§ 4.68).

(9) Shipping articles and enforcement of Seamen's Act (§ 4.69).

(10) Medicine and slop chests.[95]

(11) Load line regulations (§ 4.65a). **[TDs 74-39, 75-133.]**

(12) Carriage of United States securities, etc.[97]

(13) Carriage of mail.[98]

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[90] "The master or person having the charge or command of any vessel bound to a foreign port shall deliver to the collector of the district from which such vessel is about to depart a manifest of all the cargo on board the same, and the value thereof, by him subscribed, and shall swear to the truth thereof; whereupon the collector shall grant a clearance for such vessel and her cargo, but without specifying the particulars thereof in the clearance, unless required by the master or other person having the charge or command of such vessel so to do. If any vessel bound to a foreign port (other than a licensed yacht or an undocumented American pleasure vessel not engaged in any trade nor in any way violating the customs or navigation laws of the United States) departs from any port or place in the United States without a clearance, or if the master delivers a false manifest, or does not answer truly the questions demanded of him, or, having received a clearance adds to the cargo of such vessel without having mentioned in the report outwards the intention to do so, or if the departure of the vessel is delayed beyond the second day after obtaining clearance without reporting the delay to the collector, the master or other person having the charge or command of such vessel shall be liable to a penalty of not more than $1,000 or less than $500, or if the cargo consists in any part of narcotic drugs, or any spirits, wines, or other alcoholic liquors (sea stores excepted), a penalty of not more than $5,000 nor less than $1,000 for each offense, and the vessel shall be detained in any port of the United States until the said penalty is paid or secured: * * *" (46 U.S.C. 91)

"Whenever, under any provision or provisions of any statute of the United States, it is made the duty of the masters of vessels to make entry and clearance of same, it shall be lawful for such duties to be performed by any licensed deck officer or purser of such vessel; and when such duties are performed by a licensed deck officer or purser of such vessel, such acts shall have the same force and effect as if performed by masters of such vessels: *Provided*, That nothing herein contained shall relieve the master of any penalty or liability provided by any statute relating to the entry or clearance of vessels." (46 U.S.C. 91a) (For clearance via domestic ports, see § 4.87)

[91] "Enrolled or licensed vessels engaged in the foreign and coasting trade on the northern, northeastern, and northwestern frontiers of the United States, departing from or arriving at a port in one district to or from a port in another district, and also touching at intermediate foreign ports, shall not thereby become liable to the payment of entry and clearance fees, as if from or to foreign ports; but such vessel shall, notwithstanding, be required to enter and clear, except that when such vessels are on such voyages on the Great Lakes and touch at foreign ports for the purpose of taking on bunker fuel only, they may be exempted from entering and clearing under such rules and regulations as the Secretary of the Treasury may prescribe, notwithstanding any other provisions of law: *Provided*, That this exception shall not apply to such vessels if, while at such foreign port, they land or take on board any passengers, or any merchandise other than bunker fuel, receive orders, discharge any seamen by mutual consent, or engage any seamen to replace those discharged by mutual consent, or transact any other business save that of taking on bunker fuel." (19 U.S.C. 288)

[92] See footnote 5, § 4.3.

[93] Collectors may permit vessels to proceed to sea to adjust compasses, try out new machinery, clean tanks, etc., without requiring formal clearance. (R.S. 2793, as amended, 4197, as amended; 19 U.S.C. 288, 46 U.S.C. 91, 111, 123)

[94] The collectors and other officers of the customs shall pay due regard to the inspection laws of the States in which they may respectively act, in such manner that no vessel having on board goods liable to inspection shall be cleared until the master, or other proper person, shall have produced such certificate that all such goods have been duly inspected, as the laws of the respective States may require to be produced to collectors or other officers of the customs." (46 U.S.C. 97)

[95] See 46 U.S.C. 666, 669, 670, and 671.

[96] [Reserved]

[97] "All vessels belonging to citizens of the United States, and bound from any port in the United States to any other port therein, or to any foreign port, or from any foreign port to any port in the United States shall, before clearance, receive on board all such bullion, coin, United States notes and bonds and other securities, as the Government of the United States or any department thereof, or any minister, consul, vice consul, or other agent of the United States abroad, shall offer, and shall securely convey and promptly deliver the same to the proper authorities or consignees, on arriving at the port of destination; and shall receive for such service such reasonable compensation as may be allowed to other carriers in the ordinary transactions of business." (46 U.S.C. 98)

[98] See § 4.63(b), 18 U.S.C. 1724 and 39 U.S.C. 496.

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(14) Pratique (§ 4.70).

(15) Inspection of vessels carrying livestock (§ 4.71).

(16) Inspection of meat, meat-food products, and inedible fats (§ 4.72).

(17) Tobacco seed and plants.[99]

(18) Neutrality exportation of arms and munitions (§ 4.73).

(19) Payment of State and Federal fees and fees due the Government of the Virgin Islands of the United States.[100]

(20) Orders restricting shipping (§ 4.74).

(21) Estimated duties deposited or a bond given to cover duties on foreign repairs and equipment for vessels of the United States (Sec. 4.14).

(22) Illegal discharge of oil (§ 4.66a).

(23) Attached or arrested vessel.[100a]

(24) Immigration laws.[100b]

(c) A new vessel built in the United States for foreign account shall be cleared under a certificate of record, Coast Guard Form 1316, in lieu of a marine document.

(d) Clearance shall not be granted to any foreign vessel using the flag of the United States or any distinctive signs or markings indicating that the vessel is an American vessel.[101]

§ 4.62 Accounting for inward cargo.

Inward cargo discrepancies shall be accounted for and adjusted by correction of the Cargo Declaration, Customs Form 1302, but the vessel may be cleared and the adjustment deferred if the discharging officer's report has not been received. (See § 4.12.) **[TDs 53336, 77-255.]**

§ 4.63 Outward cargo declaration; shippers' export declarations.

(a) No vessel shall be cleared directly for a foreign port, or for a foreign port by way of another domestic port or other domestic ports (see section 4.87(b)), unless there has been filed with the district director at the port from which clearance is being obtained (1) a Cargo Declaration, Customs Form 1302, or a Cargo Declaration Outward With Commercial Forms, Customs Form 1302-A, either form with copies of bills of lading or equivalent commercial forms relating to all cargo encompassed by the manifest attached thereto (i.e. "with attachments"), together with a properly executed Master's Oath on Entry of Vessel in Foreign Trade, Customs Form 1300, and such export declarations as are required by pertinent regulations of the Bureau of the Census, Department of Commerce, or (2) an incomplete Cargo Declaration as provided for in § 4.75. **[TD's 33557(18), 38410, 53399, 55646, 56188, 71-169, 74-97, 77-255, 81-19.]**

(b) Except as hereafter stated, the number of the export declaration covering each shipment for which an authenticated export declaration is required shall be shown on the Cargo Declaration, Customs Form 1302 (with attachments) or 1302-A, in the marginal column headed "B/L No." If an export declaration is not required for a shipment, a notation shall be made on the Cargo Declaration describing the basis for the exemption with a reference to the number of the section in the Census Regulations (see §§ 30.39 and 30.50-30.57, Title 15, Code of Federal Regulations) where the particular exemption is provided. Where shipments are exempt on the basis of value and destination, the appearance of the value and destination on a bill of lading or other commercial form is acceptable as evidence of the exemption and reference to the applicable section in the Census Regulations is not required. **[TD's 57846(4), 53893, 68-172, 71-169, 77-255, 81-19.]**

(c) The list of cargo may be shown on bills of lading, cargo lists, or other commercial forms: *Provided*, That: **[TD's 53893, 71-169, 77-255, 81-19.]**

(1) The Cargo Declaration, Customs Form 1302 (with attachments) or 1302-A, is completely executed except for particulars as to cargo;

(2) The commercial forms are securely attached to the Cargo Declaration in such manner as to constitute one document;

(3) The commercial forms are incorporated by a suitable reference on the face of the Cargo Declaration such as "Cargo as per attached commercial forms;" and

(4) There is shown on the face of each such commercial form the information required by the Cargo Declaration for the cargo covered by that form.

(d) For each shipment to be exported under an entry or withdrawal for exportation or for transportation and exportation, the Cargo Declaration, Customs Form 1302 (with attachments) or 1302-A, or commercial document attached to the Cargo Declaration and made a part thereof in accordance with paragraph (c) of this section shall clearly show for such shipment the number, date, and class of such Customs entry or withdrawal (i.e., T. & E., Wd. T. & E., I. E., Wd. Ex., or Wd. T., as applicable) and the name of the port where the entry or withdrawal was filed if other than the port where the merchandise is laden for exportation. **[TD's 55876, 71-169, 77-255, 81-19.]**

(e) Customs officers shall accept a Cargo Declaration, Customs Form 1302 (with attachments) or 1302-A, covering containerized or palletized cargo which indicates by the use of appropriate words of qualification (see § 4.7a(c)(3)) that the declaration has been prepared on the basis of information furnished by the shipper. **[TD's 38410, 71-169, 77-255, 81-19.]**

§ 4.64 Documentation.

No clearance shall be granted to any vessel of the United States bound to a foreign port or place[102] unless it is under register or frontier enrollment and license.

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[99] "It shall be unlawful to export any tobacco seed and/or live tobacco plants from the United States or any Territory subject to the jurisdiction thereof, to any foreign country, port, or place, unless such exportation and/or transportation is in pursuance of a written permit granted by the Secretary of Agriculture. Such permit shall be granted by the Secretary only upon application therefor and after proof satisfactory to him that such seed or plants are to be used for experimental purposes only." (7 U.S.C. 516)

[100] "Previous to a clearance being granted to any vessel, outward bound, the legal fees which shall have accrued on such vessel shall be paid at the offices where such fees are respectively payable, and receipts for the same shall be produced to the collector or other officer whose duty it may be to grant clearances, before a clearance is granted." (46 U.S.C. 100)

[100a] See Federal Rules of Civil Procedure, Supplemental Rule (Admiralty and Maritime) E(4)(b) (28 U.S.C. Appendix)

[100b] See 8 U.S.C. 1221, 1223, 1227, 1253, 1281, 1283-1286, 1322, and 1323, 8 C.F.R. 280 (CRA 17-18-A)

[101] "It shall be unlawful for any vessel belonging to or operating under the jurisdiction of any foreign state to use the flag of the United States thereon, or to make use of any distinctive signs or markings, indicating that the same is an American vessel." (22 U.S.C. 454a) (Secs. 1-9, 49 Stat. 886-891, as amended, sec. 1-12, 87 Stat. 418-421 (46 U.S.C. 86-86i, 88-88i, 100))

[102] A vessel of the United States may be cleared for Guantanamo Bay Naval Station under enrollment and license or license. (R.S. 4337; 46 U.S.C. 278) **[TD 79-276.]**

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from the last previous port in the United States there were on board cargo and/or passengers for the ports named in the foreign clearance certificate only and that additional cargo or passengers (have) (have not) been taken on board or discharged since such clearance was granted (specifying the particulars if any passengers or cargo were taken on board or discharged), (4) a Crew's Effects Declaration in duplicate of all unentered articles acquired abroad by the officers and crew of the vessel which are still retained on board, and (5) a Ship's Stores Declaration in duplicate of the stores on board. **[TDs 52258, 52954, 54232, 71-169.]**

(c) In a case of necessity, a district director may grant an application on Customs Form 3171 of the owner or agent of an established line for permission to transship[123] all cargo and passengers from one vessel of the United States to another such vessel under Customs supervision, if the first vessel is transporting residue cargo for domestic or foreign ports or is on an outward foreign voyage or a voyage to noncontiguous territory of the United States, and is following the procedure prescribed in §§ 4.85, 4.87, or 4.88. When inward foreign cargo or passengers are so transshipped to another vessel, a separate traveling manifest (Cargo Declaration, Customs Form 1302, or Passenger List, Customs and Immigration Form I-418) shall be used for the transshipped cargo or passengers, whether or not the forwarding vessel is also carrying other residue cargo or passengers. An appropriate cross-reference shall be made on the separate traveling manifest to show whether any other traveling manifest is being carried forward on the same vessel. **[TDs 53648, 71-169, 77-255.]**

§ 4.92 Towing.

The prohibition against the use of foreign vessels in towing operations[124] shall be enforced with respect to such operations between any points embraced within the coastwise laws.

§ 4.93 Coastwise transportation by certain vessels of empty vans, tanks, and barges, equipment for use with vans and tanks; empty instruments of international traffic; stevedoring equipment and material; procedures.

(a) Vessels of the United States prohibited from engaging in the coastwise trade and vessels of nations found to grant reciprocal privileges to vessels of the United States may transport the following articles between points embraced within the coastwise laws of the United States: **[TDs 66-176, 68-302, 68-303, 71-169.]**

(1) Empty cargo vans, empty lift vans, and empty shipping tanks; equipment for use with cargo vans, lift vans, or shipping tanks; empty barges specifically designed for carriage aboard a vessel and equipment, excluding propulsion equipment, for use with such barges; and empty instruments of international traffic exempted from application of the Customs laws by the Secretary of the Treasury pursuant to the provisions of section 322(a), Tariff Act of 1930 (19 U.S.C. 1322(a)), if such articles are owned or leased by the owner or operator of the transporting vessel and are transported for his use in handling his cargo in foreign trade. **[TD 74-63.]**

(2) Stevedoring equipment and material, if such equipment and material is owned or leased by the owner or operator of the transporting vessel, or is owned or leased by the stevedoring company contracting for the lading or unlading of that vessel, and is transported without charge for use in the handling of cargo in foreign trade.[125]

(b)(1) The following nations have been found to extend privileges reciprocal to those provided in paragraph (a) of this section for empty cargo vans, empty lift vans, and empty shipping tanks to vessels of the United States: **[TDs 66-201, 66-224, 67-18, 67-60, 67-86, 67-104, 67-124, 67-215, 67-255, 68-116, 68-302, 68-303, 69-185, 70-74, 70-172, 70-183, 70-185, 70-205, 71-242, 71-254, 72-26, 73-13, 73-122, 74-28, 74-205, 74-292, 75-109, 75-122, 76-205, 76-278, 77-221, 77-255, 79-228, 80-152, 81-14, 81-84, 81-256.]**

Australia.
Austria.
Belgium.
Bermuda.
Brazil.
Canada.
Chile.
Colombia.
Denmark.
Ecuador.

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[123] See § 4.31

[124] "It shall be unlawful for any vessel not wholly owned by a person who is a citizen of the United States within the meaning of the laws respecting the documentation of vessels and not having in force a certificate of registry, a certificate of enrollment, or a license, issued pursuant to this title, or a certificate of award of number issued pursuant to section 288 of this title, to tow any vessel other than a vessel of foreign registry, or a vessel in distress, from any port or place in the United States, its Territories or possessions, embraced within the coastwise laws of the United States, to any other port or place within the same, either directly or by way of a foreign port or place, or to do any part of such towing, or to tow any such vessel, from point to point within the harbor of such places. The owner and master of any vessel towing another vessel in violation of the provisions of this section shall each be liable to a fine of not less than $250 nor more than $1,000, which fines shall constitute liens upon the offending vessel enforceable through the district court of the United States for any district in which such vessel may be found, and clearance shall not be granted to such vessel until the fines have been paid. The towing vessel shall also be further liable to a penalty of $50 per ton on the measurement of every vessel towed in violation of this section, which sum may be recovered by way of libel or suit." (46 U.S.C. 316(a)) **[TD 68-302.]**

"Any foreign railroad company or corporation, whose road enters the United States by means of a ferry, tugboat, or towboat, may own such vessel and operate the same in connection with the water transportaton of the passenger, freight, express, baggage, and mail cars used by such road, together with the passengers, freight, express matter, baggage, and mails transported in such cars, without being subject to any other or different restrictions than those imposed by law on any vessel of the United States entering ports of the United States from ports in the same foreign country. *Provided*, That except as authorized by section 883 of this title, such ferry, tugboat, or towboat shall not, under penalty of forfeiture, be used in connection with the transportation of any merchandise shipped from any port or place in the United States, its Territories or possessions, embraced within the coastwise laws of the United States, to any other port or place within the same." (46 U.S.C. 316(c))

"Every undocumented vessel, operated in whole or in part by machinery owned in the United States and found on the navigable waters thereof, except public vessels, and vessels not exceeding sixteen feet in length measured from end to end over the deck excluding sheer, temporarily equipped with detachable motors, shall be numbered. * * *" (46 U.S.C. 288) (R.S. 4370 as amended, 46 U.S.C. 316)

[125] "* * * *Provided further*, That upon such terms and conditions as the Secretary of the Treasury by regulation may prescribe, and, if the transporting vessel is of foreign registry, upon a finding by the Secretary of the Treasury, pursuant to information obtained and furnished by the Secretary of State, that the government of the nation of registry extends reciprocal privileges to vessels of the United States, this section shall not apply to the transportation by vessels of the United States not qualified to engage in the coastwise trade, or by vessels of foreign registry, of (a) empty cargo vans, empty lift vans, and empty shipping tanks, (b) equipment for use with cargo vans, lift vans, or shipping tanks, (c) empty barges specifically designed for carriage aboard a vessel, and (d) any empty instrument for international traffic exempted from application of the customs laws by the Secretary of the Treasury pursuant to the provisions of section 322 Tariff Act of 1930 (19 U.S.C. 1322(a)), if the articles described in clauses (a) through (d) are owned or leased by the owner or operator of the transporting vessel and are transported for his use in handling his cargo in foreign trade, and (e) stevedoring equipment and material, if such equipment and material is owned or leased by the owner or operator of the transported vessel, or is owned or leased by the stevedoring company contracting for the lading or unlading of that vessel, and is transported without charge for use in the handling of cargo in foreign trade." (46 U.S.C. 883) **[TD 68-302]**

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Finland.
France.
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Greece.
Iceland.
Iran.
Ireland.
Israel.
Italy.
Japan.
Kuwait.
Liberia.
Mexico.
Netherlands.
Norway.
Philippines.
Polish People's Republic.
Portugal
Republic of China.
Republic of Korea.
Republic of Panama.
Republic of Singapore.
Republic of Zaire.
South Africa.
Sweden.
Union of Soviet Socialist Republics.
United Kingdom (including Hong Kong).
Yugoslavia, Socialist Federal Republic of.

(2) The following nations have been found to extend similar reciprocal privileges in respect to the other articles mentioned in paragraph (a) of this seciton: **[TDs 69-39, 69-58, 69-59, 69-72, 69-127, 69-178, 69-185, 69-203, 70-172, 70-185, 70-205, 70-217, 71-242, 71-254, 72-26, 73-19, 73-122, 74-292, 75-109, 76-205, 76-278, 77-221, 77-225, 79-228, 80-152, 80-229, 81-14, 81-84, 81-256.]**

Australia.
Austria.
Belgium.
Bermuda.
Brazil.
Chile.
Colombia.
Denmark.
Federal Republic of Germany.
Finland.
France.
Greece.
Iceland.
Ireland.
Israel.
Italy.
Kuwait.
Liberia.
Mexico.
Netherlands.
Norway.
Polish People's Republic.
Portugal.
Republic of China.
Republic of Korea.
Republic of Panama.
Republic of Singapore.
Republic of Zaire.
South Africa.
Sweden.
Union of Soviet Socialist Republics.
United Kingdom (including Hong Kong).

(c) Any Cargo Declaration, Customs Form 1302, required to be filed under this part by any foreign vessel shall describe any article mentioned in paragraph (a) of this section laden aboard and transported from one United States port to another, giving its identifying number or symbol, if any, or such other identifying data as may be appropriate, the names of the shipper and consignee, and the destination. The Cargo Declaration shall also include a statement (1) that the articles specified in paragraph (a)(1) of this section are owned or leased by the owner or operator of the transporting vessel and are transported for his use in handling his cargo in foreign trade; or (2) that the stevedoring equipment and material specified in paragraph (a)(2) of this section is owned or leased by the owner or operator of the transporting vessel, or is owned or leased by the stevedoring company contracting for the lading or unlading of that vessel, and is transported without charge for his use in handling his cargo in foreign trade. If the district director at the port of lading is satisfied that there will be sufficient control over the coastwise transportation of the article without identifying it by number or symbol or such other identifying data on the Cargo Declaration, he may permit the use of a Cargo Declaration that does not include such information provided the Cargo Declaration includes a statement, that the district director at the port of unlading will be presented with a statement at the time of entry of the vessel that will list the identifying number or symbol or other appropriate identifying data for the article to be unladen at that port. Applicable penalties under section 584, Tariff Act of 1930, as amended (19 U.S.C. 1584), shall be assessed for violation of this paragraph. (Sec. 27, 41 Stat. 999, as amended, 80 Stat. 379, sec. 27, sec. 14, 67 Stat. 516, 82 Stat. 700; 5 U.S.C. 301, 19 U.S.C. 66, 1322(a), 1624, 46 U.S.C. 883) **[TDs 68-302, 71-169, 77-38, 77-255.]**

Note: For FR citations affection § 4.93 see List of CFR Sections Affected.

General

§ 4.94 Yacht privileges and obligations.

(a) A vessel documented as a yacht shall be used exclusively for pleasure and shall not transport merchandise nor carry passengers for pay. A vessel which is so documented and which is not engaged in any trade nor in any way violating the Customs or navigation laws of the United States may proceed from port to port in the United States or to foreign ports without clearing and is not subject to entry upon its arrival in a port of the United States, provided it has not visited a hovering vessel. **[TD 69-266.]**

(b) A cruising license may be issued to a yacht of a foreign country only if it has been made to appear to the satisfaction of the Secretary of the Treasury that yachts of the United States are allowed to arrive at and depart from ports in such foreign country and to cruise in the waters of such ports without entering or clearing at the customhouse thereof and without the payment of any charges for entering or clearing, dues, duty per ton, tonnage, taxes, or charge for cruising licenses. It has been made to appear to the satisfaction of the Secretary of the Treasury that yachts of the United States are granted such privileges in the following countries: **[TDs 72-255, 74-53, 74-140, 74-248, 75-198, 77-271.]**

Argentina.
Australia.
Bahama Islands.
Bermuda.
Canada.
Germany, Federal Republic of
Great Britain (including Turks and Caicos Islands, St. Vincent (including the territorial waters of the Northern Grenadine Islands), the Cayman Islands, the St. Christopher-Nevis-Anguilla Islands and the British Virgin Islands).
Greece.
Honduras.
Jamaica.
Liberia.
Netherlands.
New Zealand.

(c) In order to obtain a cruising license for a yacht of any country listed in paragraph (b) of this section, there shall be filed with the district director of Customs an application therefor executed by either the yacht owner or the master which shall set forth the owner's name and address and identify the vessel by flag, rig, name, and such other matters as are usually descriptive of a vessel. The application shall also include a description of the waters in which the yacht will cruise, and a statement of the probable time it will remain in such waters. Upon approval of the application, the district director will issue a cruising license in the form prescribed by paragraph (d) of this section permitting the yacht, for a stated period not to exceed 6 months to arrive and depart from the United States and to cruise in specified waters of the United States without entering and clearing, without filing manifests and obtaining or delivering permits to proceed, and without the payment of entrance and clearance fees, or fees for receiving manifests and granting permits to proceed, duty on tonnage, tonnage tax, or light money. The license shall be granted subject to the condition that the vessel shall not engage in trade or violate the laws of the United States in any respect. The master shall comply with section 433 of the Tariff Act of 1930 upon the vessel's arrival at every port or place within the United States.

(d) Cruising licenses shall be in the following form:

License To Cruise in the Waters of the United States

To District Directors of Customs:

For a period of ————from————(Date) the———— (Flag) —Rig) yacht ————(Name) belonging to ——————— —— of (Owner's name) —————————(Address) shall be permitted to arrive at and depart from the United States and to cruise in the waters of the Customs district of

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(Name of district or districts)

without entering and clearing, without filing manifests and obtaining or delivering permits to proceed, and without the payment of entry and clearance fees, or fees for receiving manifests and granting permits to proceed, duty on tonnage, tonnage tax, or light money.

This license is granted subject to the condition that the yacht named herein shall not engage in trade or violate the laws of the United States in any respect. Upon arrival at each port or place in the United States, the master shall report the fact of arrival to the Customs officer at the nearest customhouse. Such report shall be made within 24 hours, exclusive of any day on which the customhouse is not open for marine business.

Issued this ——day of ——————, 19—

(District Director of Customs)

(e) A foreign-flag yacht which is not in possession of a cruising license shall be required to comply with the laws applicable to foreign vessels arriving at, departing from, and proceeding between ports of the United States. (Secs. 433, 434, 435, 441, 46 Stat. 711, as amended, 712, as amended, R.S. 4197 as amended, sec. 5, 35 Stat. 425, as amended, sec. 4, 28 Stat. 625, R.S. 4367, 4368; 19 U.S.C. 1433, 1434, 1435, 1441, 46 U.S.C. 91, 104, 107, 313, 314.) (Sec. 3, 23 Stat. 119, as amended, sec. 5, 35 Stat. 425, as amended (5 U.S.C. 301, 46 U.S.C. 3, 104))

§ 4.95 Records of entry and clearance of vessels.

Permanent records shall be prepared at each customhouse of all entries of vessels on Customs Form 1400 and of all clearances and permits to proceed on Customs Form 1401.[130] When the number of transactions is small, such records may be prepared on the short forms (Customs Forms 1400-A and 1401-A). Whenever a vessel is diverted, as provided for in § 4.91(a) or (b), Customs Form 1401 or 1401-A shall be amended to show the new destination. **[MCLs 8/42; 22/42/ FACLs 78, Supp. 2/42; 84, Supp. 2/42. TDs 50617, 52258, 52583, 52608, 52681, 52958, 53336, 54421.]**

These records shall be open to public inspection.

■ ## § 4.96 Fisheries.

(a) As used in this section:

(1) The term "convention vessel" means a Canadian fishing vessel which, at the time of its arrival in the United States, in engaged only in the North Pacific halibut fishery and which is therefore entitled to the privileges provided for by the Halibut Fishing Vessels Convention between the United States and Canada signed at Ottawa, Canada, on March 24, 1950 (T.D. 52862);

(2) The term "nonconvention fishing vessel" means any vessel other than a convention vessel which is employed in whole or in part in fishing at the time of its arrival in the United States and

(i) Which is documented under the laws of a foreign country,

(ii) Which is undocumented, of 5 net tons or over, and owned in whole or in part by a person other than a citizen of the United States, or

(iii) Which is undocumented, of less than 5 net tons, and owned in whole or in part by a person who is neither a citizen nor a resident of the United States;

(3) The term "nonconvention cargo vessel" means any vessel which is not employed in fishing at the time of its arrival

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[130] For regulations of the Bureau of the Census relating to statistics from these

in the United States, but which is engaged in whole or in part in the transportation of fish or fish products[131a] and

(i) Which is documented under the laws of a foreign country or

(ii) Which is undocumented and owned by a person other than a citizen of the United States;

(4) The term "treaty vessel" means a Canadian fishing vessel which at the time of its arrival in the United States is engaged in the albacore tuna fishery and which is therefore entitled to the privileges provided for by the treaty with Canada on Pacific Coast Albacore Tuna Vessels and Port Privileges, entered into force at Ottawa, Canada, on July 29, 1981 (T.D. 81-227); and

(5) The term "fishing" means the planting, cultivation, or taking of fish, shell fish, marine animals, pearls, shells, or marine vegetation, or the transportation of any of those marine products to the United States by the taking vessel or another vessel under the complete control and management of a common owner or bareboat charterer.

(b) Except as provided for in paragraph (d), (e), (g), or (h) of this section, no vessel employed in fishing, other than a vessel of the United States or a vessel of less than 5 net tons owned in the United States, shall come into a port or place in the United States.[131b]

(c) A vessel of the United States to be employed in fishing may be enrolled and licensed, or licensed, depending upon its size, or registered. If registered, the vessel must be entitled to be licensed or enrolled and licensed for the fisheries.

(d) A convention vessel may come into a port of entry on the Pacific coast of the United States, including Alaska, to land its catch of halibut and incidentally-caught sable fish, or to secure supplies, equipment, or repairs. Such a vessel may come into any other port of entry or, if properly authorized to do so under § 101.4(b) of this chapter, into any place other than a port of entry, for the purpose of securing supplies, equipment, or repairs only, but shall not land its catch. A convention vessel which comes into the United States as provided for in this paragraph shall comply with the usual requirements applicable to foreign vessels arriving at and departing from ports of the United States.

(e) A nonconvention fishing vessel, other than a treaty vessel, may come into a port of entry in the United States or, if granted permission under § 101.4(b) of this chapter, into a place other than a port of entry for the purpose of securing supplies, equipment, or repairs, but shall not land its catch. A nonconvention fishing vessel which comes into the United States as provided for in this paragraph shall comply with the usual requirements applicable to foreign vessels arriving at and departing from ports of the United States.

(f) A nonconvention cargo vessel, although not prohibited by law from coming into the United States, shall not be permitted to land in the United States its catch of fish taken on the high seas or any fish or fish products taken on board on the high seas from a vessel employed in fishing or in the processing of fish or fish products, but may land fish taken on board at any place other than the high seas upon compliance with the usual requirements. Before any such fish may be landed the master shall satisfy the district director that the fish were not taken on board on the high seas by presenting declarations of the master and two or more officers or members of the crew of the vessel, of whom the person next in authority to the master shall be one, or other evidence acceptable to the district director which establishes the place of lading to his satisfaction.

(g) A treaty vessel may come into a port or place of the United States named in Annex B of the Treaty with Canada on Pacific Coast Albacore Tuna Vessels and Port Privileges to land its catch of albacore tuna, or to secure fuel, supplies, equipment and repairs. Such a vessel may come into any other port of entry or, if properly authorized to do so under § 101.4(b) of this chapter, into any place other than a port of entry, for the purpose of securing supplies, equipment, or repairs only, but shall not land its catch. A treaty vessel which comes into the United States as provided for in this paragraph shall comply with the usual requirements applicable to foreign vessels arriving at and departing from ports of the United States.

(h) A convention vessel, a nonconvention fishing vessel, a nonconvention cargo vessel, or a treaty vessel, which arrives in the United States in distress shall be subject to the usual requirements applicable to foreign vessels arriving in distress. While in the United States, supplies, equipment, or repairs may be secured, but, except as specified in the next sentence, fish shall not be landed unless the vessel's master, or other authorized representative of the owner, shows to the satisfaction of the district director that it will not be possible, by the exercise of due diligence, for the vessel to transport its catch to a foreign port without spoilage, in which event the district director may allow the vessel upon compliance with all applicable requirements, to land, transship, or otherwise dispose of its catch. Nothing herein shall prevent, upon compliance with normal Customs procedures, a convention vessel arriving in distress from landing its catch of halibut and incidentally-caught sable fish at a port of entry on the Pacific coast, including Alaska; a foreign cargo vessel arriving in distress from landing its cargo of fish taken on board at any place not on the high seas; or a treaty vessel arriving in distress from landing its catch of albacore tuna at a port of entry on the Pacific coast, including Alaska.

(i) A registered vessel may be cleared for a whaling voyage[131c] under the same terms and conditions as though it were enrolled and licensed for the whale fishery.

[TDs 51049, 52880, 58336, 69-266, 77-241, 82-144.]

§ 4.97 Salvage vessels.

(a) Only a vessel of the United States, a numbered motorboat owned by a citizen, or a vessel operating within the purview of paragraph (d) or (e) of this section, shall

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[131a] "* * * Except as otherwise provided by treaty or convention to which the United States is a party, no foreign-flag vessel shall, whether documented as a cargo vessel or otherwise, land in a port of the United States its catch of fish taken on board such vessels on the high seas or fish products processed therefrom, or any fish or fish products taken on board such vessel on the high seas from a vessel engaged in fishing operations or in the processing of fish or fish products." (46 U.S.C. 251)

[131b] "Vessels of twenty tons and upward, enrolled in pursuance of sections 251-255, 258, 269, 262-280, 293, 206-316, 318, 321-330 and 333-335 of this title, and having a license in force, or vessels of less than twenty tons, which, although not enrolled, have a license in force, as required by such sections, and no others, shall be deemed vessels of the United States entitled to the privileges of vessels employed in the coasting trade or fishers. * * *" (46 U.S.C. 251)

[131c] "All vessels which may clear with registers for the purpose of engaging in the whale fishery shall be deemed to have lawful and sufficient papers for such voyages, securing the privileges and rights of registered vessels, and the privileges and exemptions of vessels enrolled and licensed for the fisheries." (46 U.S.C. 280) (R.S. 4132, as amended, 4311, as amended, 4339; 46 U.S.C. 11, 251, 280)

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engage in any salvage operation in territorial waters of the United States unless an application addressed to the Commissioner of Customs to use another specified vessel in a completely described operation has been granted.[133] **[TD 69-266.]**

(b) Upon receipt of such an application, the Commissioner of Customs will cause an investigation to be made immediately to determine whether a suitable vessel of the United States or a suitable numbered motorboat owned by a citizen is available for the operation. If he finds that no such vessel is available and that the facts otherwise warrant favorable action, he will grant the application.

(c) If the application is granted, the applicant shall make a full report of the operation as soon as possible to the district director at the port nearest the place where the operation was conducted.

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[133] "No foreign vessel shall, under penalty of forfeiture, engage in salvaging operations on the Atlantic or Pacific coast of the United States, in any portion of the Great Lakes or their connecting or tributary waters, including any portion of the Saint Lawrence River through which the international boundary line extends, or in territorial waters of the United States on the Gulf of Mexico, except when authorized by a treaty or in accordance with the provisions of section 725 of this title: *Provided, however,* That if, on investigation, the Secretary of the Treasury is satisfied that no suitable vessel wholly owned by a person who is a citizen of the United States and documented under the laws of the United States or numbered pursuant to section 288 of this title, is available in any particular locality he may authorize the use of a foreign vessel or vessels in salvaging operations in that locality and no penalty shall be incurred for such authorized use." (46 U.S.C. 316(d))

"Nothing in this section shall be held or construed to prohibit or restrict any assistance to vessels or salvage operations authorized by Article II of the treaty between the United States and Great Britain 'concerning reciprocal rights for United States and Canada in the conveyance of prisoners and wrecking and salvage' signed at Washington, May 18, 1908 (35 Stat. 2036), or by the treaty between the United States and Mexico 'to facilitate assistance to and salvage of vessels in territorial waters,' signed at Mexico City, June 13, 1935 (49 Stat. 3359)." (46 U.S.C. 316(e))

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(d) A Canadian vessel may engage in salvage operations on any vessel in any territorial waters of the United States in which Canadian vessels are permitted to conduct such operations by article II of the treaty between the United States and Great Britain signed on May 18, 1908,[134] or by section 725, title 46, United States Code.[135] If any such vessel engages in a salvage operation in territorial waters of the United States, the owner or master of the vessel shall make a full report of the operation as soon as possible to the district director at the port nearest the place where the operation was conducted.

(e) A Mexican vessel may engage in a salvage operation on a Mexican vessel in any territorial waters of the United States in which Mexican vessels are permitted to conduct such operations by the treaty between the United States and Mexico signed on June 13, 1935.[136]

§ 4.98 Navigation fees.

(a)(1) The Customs Service shall publish a General Notice in the Federal Register and Customs Bulletin in December of each year, beginning in December 1980, setting forth a revised schedule of navigation fees for the following services:

Fee No. and description of services

1 Entry of vessel, including American, from foreign port:
  (a) Less than 100 net tons.
  (b) 100 net tons and over.
2 Clearance of vessel, including American, to foreign port:
  (a) Less 100 net tons.
  (b) 100 net tons or over.
3 Issuing permit to foreign vessel to proceed from district to district, and receiving manifest.
4 Receiving manifest of foreign vessel on arrival from another district, and granting a permit to unlade.
5 Receiving post entry.
6 Receiving official bond not otherwise provided for.
7 Certifying payment of tonnage tax for foreign vessels only.
8 Furnishing copy of official document, including certified outward foreign manifest, and others not elsewhere enumerated.

The published revised fee schedule shall remain in effect throughout the following year. **[T.D. 80-286.]**

(2) The fees shall be calculated in accordance with §§ 19.5(b) and 24.17(d), Customs Regulations (19 CFR 19.5(b), 24. 17(d)), and be based upon the amount of time the average service requires of a Customs officer in the fifth step of GS-9.

(3) The party requesting a vessel service described in paragraph (a)(1) of this section for which reimbursable overtime compensation is payable under 19 U.S.C. 267 or 19 U.S.C 1451 and § 24.16 of this chapter shall pay only the applicable overtime charge, and not both the overtime charge and the fee specified in the fee schedule.

(4) The revised fee schedule shall be made available to the public in Customs offices.

(5) The respective fees shall be designated in correspondence and reports by the applicable fee number. **[BMIN/BMs 23/39, 307/40, 363/41, 439/42, BMIN/CLS 119/36, 125/36. TDs 49468, 53385, 55893, 56251, 56340, 69-266, 80-25.]**

(b) Fee 1 shall be collected at the first port of entry only. It shall not be collected from a vessel entering directly from a port in noncontiguous territory of the United States nor from one entering at a port on a northern, northeastern, or northwestern frontier otherwise than by sea. **[TD 69-266.]**

(c) Fee 2 shall be collected at the final port of departure from the United States. It shall be collected from a yacht or public vessel which obtains a clearance, but shall not be collected from a vessel clearing directly for a port in noncontiguous territory of the United States nor from one clearing from a port on the northern, northeastern, or northwestern frontier otherwise than by sea. It shall be collected only upon the first clearance each year of a vessel making regular daily trips between a port of the United States and a port in Canada wholly upon interior waters not navigable to the ocean. **[TD 69-266.]**

(d) Fee 3 shall be collected for granting a permit to a foreign vessel to proceed to another Customs district, but not for a permit to proceed to a port in the same district. It shall be collected from a foreign vessel clearing directly for a port in noncontiguous territory of the United States outside its Customs territory. This fee shall not be collected in the case of a foreign vessel proceeding on a voyage by sea from one district in the United States to another such district via a foreign port. Only one fee shall be collected in case of simultaneous vessel transactions. **[TDs 51912, 69-266.]**

(e) Fee 4 shall be collected for receiving the manifest of a foreign vessel arriving from another Customs district, but not arriving from a port in the same district. It shall be collected from a foreign vessel entering directly from a port in noncontiguous territory of the United States outside its Customs territory. This fee shall not be collected in the case of a foreign vessel which arrives in one district in the United States from another such district on a voyage by sea via a foreign port. Only one fee shall be collected in the case of simultaneous vessel transactions. **[TDs 51912, 69-266.]**

(e-1) Fee 5 shall be collected from a foreign or American vessel at each port where the vessel is required to file a post entry in accordance with the provisions of § 4.12(a)(3). An original post entry may be supplemented by additional post entries in instances where items were omitted from the original post entry. A separate fee shall

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[134] "The High Contracting Parties agree that vessels and wrecking appliances, either from the United States or from the Dominion of Canada, may salve any property wrecked and may render aid and assistance to any vessels wrecked, disabled or in distress in the waters or on the shores of the other country in that portion of the St Lawrence River through which the International Boundary line extends, and, in Lake Ontario, Lake Erie, Lake St Clair, Lake Huron, and Lake Superior, and in the Rivers Niagara, Detroit, St Clair, and Ste Marie, and the Canals at Sault Ste Marie, and on the shores and in the waters of the other country along the Atlantic and Pacific Coasts within a distance of thirty miles from the International Boundary on such Coasts.

It is further agreed that such reciprocal wrecking and salvage privileges shall include all necessary towing incident thereto, and that nothing in the Customs, Coasting or other laws or regulations of either country shall restrict in any manner the salving operations of such vessels or wrecking appliances.

Vessels from either country employed in salving in the waters of the other shall, as soon as practicable afterwards, make full report at the nearest custom house of the country in whose waters such salving takes place." (35 Stat. 2036)

[135] "Canadian vessels and wrecking appurtenance may render aid and assistance to Canadian or other vessels and property wrecked, disabled, or in distress in the waters of the United States contiguous to the Dominion of Canada.

This section shall be construed to apply to the canal and improvement of the waters between Lake Erie and Lake Huron, and to the waters of the Saint Mary's River and Canal. * * *" (46 U.S.C. 725)

The waters of Lake Michigan are not contiguous to the Dominion of Canada within the meaning of this statute.

[136] "The High Contracting Parties agree that vessels and rescue apparatus, public or private, of either country, may aid or assist vessels of their own nationality, including the passengers and crews thereof, which may be disabled or in distress on the shores or within the territorial waters of the other country within a radius of seven hundred and twenty nautical miles of the intersection of the International Boundary Line and the coast of the Pacific Ocean, or within a radius of two hundred nautical miles of the intersection of the International Boundary Line and the coast of the Gulf of Mexico." (49 Stat. 3360) (R.S. 4370, as amended; 46 U.S.C. 316) [28 F.R. 1, Dec. 31, 1963, as amended by T.D. 69-266, 34 F.R. 20423, Dec. 31, 1969]

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be collected for each supplemental post entry made to the original post entry. **[TD 74-194.]**

(f) Fee 6 is collected principally from vessels in the Alaska trade. **[TDs 52025, 69-266.]**

(g) Fee 7 shall be collected from foreign vessels only. **[TDs 53050, 53336, 69-266.]**

(h) Fee 8 shall be collected for each copy of any official document, whether certified or not, furnished to any person other than a Government officer. (Sec. 501, 65 Stat. 290; 92 Stat. 888 (31 U.S.C. 483a, Pub. L. 95-410)) **[TDs 52155, 69-266.]**

§ 4.99 Forms: Substitution.

(a) Customs forms 1300, 1301, 1302, 1302-A, 1303, and 1304 printed by private parties or foreign governments shall be accepted provided the forms so printed—

(1) Conform to the official Customs forms in wording arrangement, style, size of type, and paper specifications;

(2) Conform to the official Customs forms in size, except that:

(i) Each form may be printed on metric A4 size paper, 210 by 297 millimeters (approximately 8 1/4 by 11 2/3 inches).

(ii) The vertical format of Customs forms 1300, 1301, 1302-A, 1303, and 1304 may be increased in size up to a maximum of 14 inches.

(iii) Customs form 1302 may be reduced in size to not less than either 8 1/2 by 11 inches or 210 by 297 millimeters (metric A4 size). If Customs form 1302 is reduced in size, the size of type used may be reduced proportionately.

(b) If instructions are printed on the reverse side of the official Customs form, the instructions may be omitted from the privately printed forms, but the instructions shall be followed.

(c) The district director, in his discretion, may accept a computer printout instead of Customs form 1302 for use at a specific port. However, to insure that computer printouts may be used at all ports, the private party or foreign government first must obtain specific approval from headquarters, U.S. Customs Service.

(d) Forms which do not comply with the requirements of this section are not acceptable without the specific approval of the Commissioner of Customs. **[TD 79-255.]**

§ 4.100 Licensing of vessels of less than 30 net tons.

(a) The application for a license to import merchandise in a vessel of less than 30 net tons in accordance with section 6, Anti-Smuggling Act of August 5, 1935, shall be addressed to the Secretary of the Treasury and delivered to the district director of the district in which are located the ports where foreign merchandise is to be imported in such vessel. **[TD 72-211.]**

(b) The application shall contain the following information:

(1) Name of the vessel, rig, motive power, and home port.

(2) Name and address of the owner.

(3) Name and address of the master.

(4) Net tonnage of the vessel.

(5) Kind of merchandise to be imported.

(6) Country or countries of exportation.

(7) Ports of the United States where the merchandise will be imported.

(8) Whether the vessel will be used to transport and import merchandise from a hovering vessel.

(9) Kind of document under which the vessel is operating.

(c) If the district director finds that the applicant is a reputable person and that the revenue would not be jeopardized by the issuance of a license, he may issue the license for a period not to exceed 12 months, incorporating therein any special conditions he believes to be necessary or desirable, and deliver it to the licensee.

(d) The master or owner shall keep the license on board the vessel at all times and exhibit it upon demand of any duly authorized officer of the United States. This license is personal to the licensee and is not transferable.

(e) The Secretary of the Treasury or the district director in whose office the license was issued may revoke the license if any of its terms have been willfully or intentionally violated or for any other cause which may be considered prejudicial to the revenue or otherwise against the interest of the United States. (Sec. 6, 49 Stat. 519; 19 U.S.C. 1706)

§ 4.101 Prohibitions against Customs officers and employees.

No Customs officer or employee shall: **[TD 78-394]**

(a) Own, in whole or in part, any vessel except a yacht or other pleasure boat;

(b) Act as agent, attorney, or consignee for the owner or owners of any vessel, or of any cargo or lading on board the vessel; or

(c) Import or be concerned directly or indirectly in the importation of any merchandise for sale into the United States.

issued by the Department of State, as provided in 22 CFR Part 123. See footnote (²) to section 6.3 of this Part.

(b) No passenger arriving from Cuba by aircraft will be released by Customs, nor will the aircraft be cleared or permitted to depart, before the passenger is released by an officer of the Immigration and Naturalization Service or by a Customs officer acting on behalf of that agency.

(c) All other provisions of this part relating to entry and clearance of aircraft are applicable to aircraft subject to this section. **[T.D. 80-116, 80-264.]**

§ 6.4 Entry of aircraft of scheduled airlines.

(a) Aircraft operated by scheduled airlines coming into any area from any place outside the United States shall be entered in the area of first landing. **[CIE 80/54; TDs 50464. 53634.]**

(b) Aircraft operated by scheduled airlines coming from one area into another area shall be entered therein if carrying residue cargo (§ 6.9). **[TDs 52902, 53634.]**

(c) Entry required by this section in an area shall be made at the place of landing provided for under § 6.2. **[TD 53634.]**

§ 6.5 Clearance of aircraft of scheduled airlines.

(a) Aircraft operated by scheduled airline departing for any place outside the United States may clear from the area of departure, but clearance shall be mandatory only during any period covered by a proclamation of the President that a state of war exists between foreign nations, or the aircraft is— **[TDs 50464, 53634.]**

(1) Beginning a flight in that area; or

(2) Carrying from that area merchandise which must be listed in its general clearance declaration (§ 6.8).

(b) Aircraft operated by scheduled airlines departing from one to another area shall clear in the area from which departing if carrying residue foreign cargo, and, when clearance is not required, if transporting merchandise from one to another area or from an area to possessions of the United States shall obtain permission to depart from the district director when required for the purposes of regulations of the Bureau of the Census (15 CFR Part 30). **[TDs 50503, 52902, 53634, 55876.]**

(c) Clearance required by this section or permission to depart may be obtained by the aircraft commander or an authorized person at the Customs port of entry (whether or not an international airport) at or nearest each place at which merchandise or passengers, or both, are taken aboard for discharge beyond the area. In such case, the clearance, or permission to depart, shall be limited to the passengers and merchandise taken aboard at such place. Otherwise clearance, or permission to depart, shall be obtained at the Customs port of entry (whether or not an international airport) at or nearest the place of last take-off in the area unless some other place is designated by the district director. **[TDs 53634, 55876.]**

§ 6.6 Documents; form.

(a) The forms described in §§ 6.7 and 6.8 shall be the primary documents required for entry and clearance of aircraft. The forms shall be approximately but not to exceed 8 1/2″ wide and 14″ long and shall be on white bond paper that will not discolor or become brittle within 20 years. If these forms are dittoed or if the entries on them are to be dittoed, the paper must be substance 40, 17″ × 22″, 1,000-sheet basis; if printed or typewritten, at least 25 percent rag, substance 26, 17″ × 22″, 1,000-sheet basis. These forms and the entries thereon must be dittoed, typewritten, or printed with ink, or dye that will not fade or "feather" within 20 years. The forms to be used for the entry and clearance of the aircraft, passengers, crewmembers, and merchandise carried thereon shall be forms approved by the Commissioner of Customs. If a document or the entries thereon are in a foreign language, a translation in English shall be furnished with the original and with each copy. **[TDs 52018, 52967, 53634, 54482, 56439]**

(b) The Customs forms described in §§ 6.7 and 6.8 are in the English language and are obtainable from district directors upon payment by the owner or operator of the aircraft. These forms may be printed or dittoed by private parties, provided the forms so printed or dittoed conform to the official forms currently in use, with respect to size, wording arrangement, style and size of type, and paper specifications. A small quantity of each of the forms shall be set aside by district directors for free distribution and official use. **[TDs 53634, 54482, 56439.]**

(c) Customs officers shall accept an inward or outward air cargo manifest covering containerized or palletized cargo which indicates by the use of appropriate words of qualification (see § 4.7a(c) of this chapter) that the manifest has been prepared on the basis of information furnished by the shipper. However, the use of qualifying words in no way limits the responsibility to submit accurate manifests or in any way qualifies the declaration as to the accuracy of the manifest. (Sec. 431, 46 Stat. 710, as amended; 19 U.S.C. 1431) **[TD 74-97.]**

§ 6.7 Documents for entry.

(a) At the time any aircraft arriving from outside the areas of the United States lands in an area in which entry is required by § 6.3 or 6.4, the aircraft commander or an authorized person shall deliver an inward general declaration on Customs Form 7507, or on a form conforming thereto, and shall show thereon all of the information called for by the official form, unless any of such information is otherwise furnished as provided in this section, and shall deliver any other applicable documents as specified in this section. If an aircraft proceeds from one to another area of the United States or from one to another port in the same area carrying residue cargo or uncleared passengers, the aircraft commander or an authorized person shall deliver the documents specified in § 6.9 (c) or (d). **[TDs 51595, 52967, 53634, 53991, 55348, 55413, 55579, 55978, 56066.]**

(b) Some of the information called for by the official form of inward general declaration may be alternatively furnished as provided herein. Some of the documents specified herein may not be required on a separate sheet or form where it is indicated that the information required on such documents may be included with information on another document or form. **[CCLs 37 (supp. 1), 38/57; 52/58; TDs 51674, 52018, 52143, 52437, 52705, 52967, 53482, 53634, 53743, 53947, 53991, 54482, 54722, 55413.]**

(1) Crew manifest: A crew manifest shall be furnished with the general declaration except upon arrival of an air-

craft directly from Canada on a flight originating there in which case merely the total number of crewmembers need be shown on the inward general declaration. The crew manifest shall be furnished by showing the full name (surname, given name and middle initial) of each crewmember in the column headed "Total Number of Crew" on the inward general declaration, or by showing such names on a separate, appropriately identified document.

(2) Crew purchases: A crew purchase list shall be furnished with the general declaration. Articles entered by crewmembers not required to file crew declarations by section 148.62 of this chapter shall be listed opposite the name of the crewmember on the general declaration or on an attached separate crew purchase list. Any articles required by section 148.62 of this chapter to be declared on Customs Form 5129, need not be listed if such crew declarations are securely attached to the general declaration or attached list, and the following statement appears thereon:

Crew purchases as per attached Crew Member's
Declarations.

In the case of an aircraft arriving direct from Canada on a flight which originated in that country, no crew purchase list shall be required, but any crew declarations shall be attached to the general declaration and the total number thereof shall be shown on the face of the general declaration with the figure for the total number of crew. **[TD 78-99.]**

(3) A cargo manifest for all cargo on board shall be submitted with the general declaration. The cargo manifest shall be on Customs Form 7509 except as otherwise provided in this paragraph.

(i) When Form 7509 is used, the full information called for by the official form shall be shown thereon except that the detailed information about the cargo shipped under air waybills may be furnished by securely attaching to the cargo manifest a copy of each air waybill, by listing the numbers thereof on the manifest, and by noting the statement "Cargo as per Air Waybills Attached" on the manifest.

(ii) Customs Form 5119-A may be used as the cargo manifest if there is on board only cargo not exceeding $250 in value which is to be entered on such form. **[TD 78-99.]**

(iii) Customs Form 7523 may be used as the cargo manifest if there is on board only cargo which may be entered on that form.

(iv) No cargo manifest is required for merchandise, including baggage and stores, arriving from and departing for a foreign country on the same through flight, although any such document on board may be inspected, except that any arms, ammunition, or implements of war on board which require a license issued by the Secretary of State shall be manifested on every arrival.

(v) On the cargo manifest or on a separate list attached thereto in which case the manifest shall bear the notation "Stores list attached," there shall be shown all alcoholic beverages, tobacco products, narcotic drugs, and bonded or foreign merchandise arriving as stores as well as all equipment of a type requiring a license as specified in subdivision (iv) of this subparagraph.

(vi) In the case of aircraft of scheduled airlines, domestic supplies and equipment not subject to license (unless subject to a duty equal to any internal-revenue tax from which such articles were previously excepted) and any fuel need not be included in the stores list if the statement "Domestic supplies and equipment and fuel for immediate flight only, except as noted" is noted on the cargo manifest or separate stores list attached thereto.

(vii) Unaccompanied baggage arriving in the United States under a check number from any foreign country by air shall be shown on the cargo manifest in columns under the following headings:

Check No.	Description of package	Where from	Destination

On the right of the foregoing columns two blank columns, one headed "Name of examining officer" and on the right thereof another headed "Disposition," shall be provided on the cargo manifest for use of Customs officers. Unaccompanied unchecked baggage arriving as air express or freight shall be manifested as other air express or freight.

(c) One copy of the general declaration and one copy of each attached manifest shall be delivered by the aircraft commander or an authorized person immediately to the Customs officer in charge at the airport or other place of arrival. **[TDs 53634, 53743, 53991.]**

(d) The provisions of section 466, Tariff Act of 1930, as amended (19 U.S.C. 1466), are applicable to any aircraft of United States registry engaged in trade and arriving in the United States, as defined in section 401(h), Tariff Act of 1930, as amended (19 U.S.C. 1401(h)), whether from a contiguous or noncontiguous foreign country, and a notation as to any equipment installed on, or repairs made to, any such aircraft in a foreign country shall be made in the aircraft journey log book, which shall set forth a general description of the equipment or repairs and a statement of any necessity therefor. The aircraft commander or an authorized person, on the first subsequent arrival of the aircraft in the United States, shall exhibit the journey log book to the Customs officer at the place of arrival. A declaration on Customs Form 226, to the effect that no equipment was purchased, or repairs made, in a foreign country, shall not be required in any case for any such aircraft. Except as specified hereafter in this paragraph, any such equipment purchased or repairs made shall be subject to entry and deposit of duty as prescribed by § 4.14 of this chapter, but the following may be added to the entry in lieu of the filing of Customs Forms 226: **[TDs 52316, 53634, 53991, 78-99, 82-145.]**

This entry contains a complete account of the equipment purchased for and the repairs made to the within-mentioned aircraft during the flight covered hereby, together with the cost of such equipment and the expenses of such repairs (including the cost of installation of equipment and the cost of repair parts and material used). Application is hereby made for the ascertainment of the amount of duty due under section 466, Tariff Act of 1930, as amended.

(e) A scheduled airline or an air carrier generally authorized to operate contract passenger or cargo flights and operating between the United States and foreign territory shall not be required to file Custom Form 226 or deposit duty or give a bond therefor for equipment purchased for or repairs made to the aircraft when: **[TDs 53634, 53291, 54871, 74–204, 82–145.]**

(1) Such equipment or repairs were made necessary by reason of stress of weather or other casualty occurring since the aircraft's last departure from the United States; or

(2) Such equipment or repairs were necessary to secure the safety and airworthiness of the aircraft, provided the necessity of such equipment or repairs was unforeseen prior to the time of the aircraft's last departure from the United States; or

(3) Such equipment or repairs were necessary to comply with regulations of the Federal Aviation Administration or other Agency of the United States or of a foreign government, provided the necessity for such equipment or repairs was unforeseen prior to the time of the aircraft's last departure from the United States; or

(4) Such equipment installed and materials used in making the repairs were manufactured or produced in the United States and the work incident to such installation or repairs was performed by the regular crew of the aircraft or by residents of the United States.

Whenever entry is not required in any of the foregoing circumstances, the following statement shall be included on the general declaration or attached air cargo manifest:

> Entry for equipment purchased or repairs made to this aircraft while in a foreign country not required under § 6.7(e) of the Customs Regulations.

In all cases where entry is not required the district director shall be satisfied from an inspection of the journey log book and such further investigation as he may deem necessary that the facts with respect to the installation of the equipment and making of repairs were as set forth in paragraphs (e)(1), (2), (3), or (4) of this section.

(f) The provisions of section 446, Tariff Act of 1930 (19 U.S.C. 1446), relating to supplies and stores retained on board, shall be applicable to aircraft arriving in the United States from any foreign port or place. **[TDs 52054, 53634, 53991.]**

[Reserved]

(h)(1) Aircraft commanders or agents shall notify the district director of shortages (merchandise and unaccompanied baggage manifested, but not found) or overages (merchandise and unaccompanied baggage found, but not manifested) of merchandise and unaccompanied baggage. **[TDs 53991, 54482, 55436, 71-22, 76-81.]**

(2) Shortages shall be reported to the district director in the following manner:

(i) By submission, within 30 days after the date of entry of the aircraft, of a separate copy of the cargo manifest form marked or stamped "Shortage Declaration," provided the copy lists the merchandise involved, states the reasons for the discrepancy, and bears a signed declaration of the aircraft commander or an authorized agent reading, "I declare to the best of my knowledge and belief that the discrepancy described herein occurred for the reasons stated. I also certify that evidence to support the explanation of the discrepancy will be retained in the carrier's files for a period of at least one year and will be made available to Customs on demand;"

(ii) By endorsement on the importer's claim for shortage on Customs Form 5931, as provided for in § 158.3 of this chapter; or

(iii) By submission of Customs Form 5931 within 30 days after the date of entry of the aircraft.

(iv) Whichever of the three alternatives is followed, satisfactory evidence to support the explanation of the shortage shall be retained in the carrier's files for one year.

(3) Overages shall be reported to the district director within 30 days after the date of entry of the aircraft by completion of a post entry (section 440, Tariff Act of 1930, as amended) on a separate copy of the cargo manifest form marked or stamped "Post Entry," provided the copy lists the merchandise involved, states the reasons for the discrepancy, and bears the signed declaration described in paragraph (h)(2)(i) of this section, or by submission of Customs Form 5931.

(4) The district director shall immediately advise the aircraft commander or agent of those discrepancies which are not reported by the aircraft commander or agent. Notification may be in any appropriate manner, including the furnishing of a copy of Customs Form 5931 to the aircraft commander or agent. The aircraft commander or agent shall satisfactorily resolve the matter within 30 days after the date of such notification.

(5) Unless the required notification and explanation are made timely and the district director is satisfied that the discrepancies resulted from clerical error or other mistake and that there has been no loss of revenue (and in the case of a discrepancy not initially reported by the aircraft commander or agent, that there was a valid reason for the failure to so report); applicable penalties under section 584, Tariff Act of 1930, as amended, shall be assessed, except that any penalty involving a manifest discrepancy resulting in an overage shall be $500 (see § 162.31 of this chapter). For purposes of this section, the term "clerical error" is defined as a nonnegligent, inadvertent, or typographical mistake in the preparation, assembly, or submission of the manifest. However, repeated similar manifest discrepancies by the same parties may be deemed the result of negligence and not clerical error or other mistake. The fact that the aircraft commander or owner had no knowledge of a discrepancy shall not relieve him from the penalty. **[TD 79-160.]**

(6) A correction in the manifest shall not be required in the case of bulk merchandise if the district director is satisfied that the difference between the manifested quantity and the quantity unladden, whether the difference constitutes an overage or a shortage, is an ordinary and usual difference properly attributable to absorption of moisture, temperature, faulty weighing at the airport, or other similar reason. A correction in the manifest shall not be required because of discrepancies between marks or numbers on packages of merchandise and the marks or numbers for the same packages as shown on the manifest of the importing aircraft when the quantity and description of the merchandise in such packages are correctly given. (Sec. 644, 46 Stat. 761 Sec. 1109, 72 Stat. 799; 19 U.S.C. 1644, 49 U.S.C. 1509)

§ 6.8 Documents for clearance, or for certain departures.

(a) At the time of departure or, with Customs approval, if the cargo is available for inspection, at any time before departure, of any aircraft from any area from which clearance is required by § § 6.3 or 6.5, the aircraft commander or an authorized person shall deliver to Customs an outward general declaration, a cargo manifest and any required shipper's export declarations for all cargo on the aircraft (and for aircraft itself, if it is being exported from the United States for foreign account). If cargo is on board the aircraft, an outward general declaration shall not be required if the following statement, signed by the aircraft commander or an authorized person, is on the cargo manifest:

I declare that to the best of my knowledge and belief this manifest contains an exact and true account of all cargo on board this aircraft.

Signed ______________________________

(Aircraft Commander or Authorized Person)

If no cargo is on board, an outward general declaration shall not be required if the following statement, signed by the aircraft commander or an authorized person, is on the cargo manifest:

I declare that there is no cargo on board this aircraft.

Signed ______________________________

(Aircraft Commander or Authorized Person)

The aircraft commander or authorized person also shall deliver a proper export inspection certificate issued by the Veterinary Services, Animal and Plant Health Inspection Service, Department of Agriculture (9 CFR pt. 91), to the Customs officer in charge at the time of departure of any aircraft carrying horses, mules, asses, cattle, sheep, swine, or goats. If required, any shipper's export declarations and cargo manifest may be filed pro forma if the aircraft is departing from the United States and prior to departure a proper bond is given, in which case completed shipper's export declarations and the completed cargo manifest are to be delivered pursuant to the bond not later than the fourth day after departure: *Provided*, That, during any period covered by a proclamation of the President that a state of war exists between foreign nations, no aircraft shall be cleared for a foreign destination until the completed cargo manifest and all required shipper's export declarations shall have been filed with the Customs officer in charge: *And provided further*, That no aircraft shall be cleared until the completed cargo manifest and all required shipper's export declarations have been filed with the Customs officer in charge if the aircraft is departing on a flight from the United States directly or indirectly to a country or other destination in country groups designated W, Y, or Z of the Export Regulations (15 CFR Part 370, Supplement No. 1). At the time of departure of an aircraft not required to clear which is transporting merchandise from one to another area or from an area to possessions of the United States, the documents prescribed in the regulations of the Bureau of the Census (15 CFR Part 30) must be filed before departure or a bond to produce the required documents timely and pro forma documents, when required by the district director, as prescribed in 15 CFR 30.24 must be filed. Clearance of the aircraft on such a flight is not required unless foreign residue cargo is being carried (see § 6.9), or unless the aircraft is of foreign registry and is not departing under the procedure provided for in § 6.2(d) or unless the aircraft is to proceed to a foreign destination thereafter. [TDs 51595, 53634, 55354, 55396, 55413, 55876, 70-6, 76-241, 79-32, 82-92.]

(b) The outward general declaration shall be on Customs Form 7507. Any cargo manifest required with such declaration shall be on Customs Form 7509. The full information required by the official forms shall be shown thereon except as otherwise provided in this paragraph. [TDs 51760, 52018, 52143, 52484, 52967, 53634, 55413.]

(1) In the case of shipments on an air waybill, a copy of each such document may be attached to the cargo manifest, the numbers of such air waybills listed in the body of the manifest, and the statement "Cargo as per Air Waybills Attached" noted on the manifest.

(2) On direct departures only, for shipments requiring a shipper's export declaration a copy of each export declaration may be attached to the cargo manifest. In such case the numbers of such declarations shall be listed on the cargo manifest in the column for air waybill numbers, and the statement "Cargo as per Export Declarations Attached" noted on the manifest.

(c) When the aircraft is departing directly from the United States, the general declaration required by this section shall be prepared in duplicate, with a single copy of each cargo manifest. In the case of clearance of a scheduled aircraft at an interior port two copies of each cargo manifest for cargo there laden are required if the aircraft is proceeding to another port before departure from the United States for a place outside thereof. For each shipment to be exported under an entry or withdrawal for exportation or for transportation and exportation, the outward manifest or the air waybill or consignment note attached to the manifest and made a part thereof shall clearly show for such shipment the number, date, and class of such customs entry or withdrawal (i.e. T. & E., Wd. T. & E., I.E., Wd. Ex., or Wd. T., as applicable) and the name of the port where the entry or withdrawal was filed if other than the port where the merchandise is laden for exportation. One copy of the general declaration and each air cargo manifest shall be delivered by the aircraft commander or an authorized person to the customs officer in charge to be retained by him as a record of outward clearance. However, if a cargo manifest is delivered in duplicate, with the appropriate statement as provided for in paragraph (a) of this section, the general declaration shall not be required. [TDs 51760, 52018, 52967, 53634, 53893, 55354, 82-92.]

(d) One copy of the general declaration for departure from the United States or one copy of the cargo manifest with the appropriate statement as provided for in paragraph (a) of this section, shall constitute a clearance certificate when endorsed by the Customs officer in charge to show that clearance is granted. When a scheduled aircraft obtains clearance at a port other than the port at or nearest the place of last takeoff, a copy of the cargo manifest shall be attached to and accompany the general declaration endorsed at such port for any necessary use at subsequent United States ports. In such a situation, if the cargo manifest contains the appropriate statement as provided for in paragraph (a) of this section, the general declaration shall not be required. [TDs 51760, 53634, 55354, 82-92.]

(e) In any case that merchandise (other than residue cargo which requires documentation in every instance as

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shall be delivered by the carrier to the consignee to be used in making entry. This copy may be endorsed as provided for by § 141.11(a)(4) of this chapter and used as a carrier's certificate. **[TD 73–175.]**

§ 6.16 Certificate of lading for exportation.

The certificate of lading for exportation on customs Form 7512 or customs Form 7520 shall be executed at the place where the aircraft clearance covering such merchandise is obtained. In any case where the aircraft clearance is obtained at a place other than the place of last take-off from United States customs territory, as provided for by § 6.5(c), the aircraft commander or an authorized person shall at each place of subsequent landing in United States customs territory prior to foreign departure (a) immediately report arrival with merchandise on board destined to be exported from bond to the customs officer at that place and (b) surrender the clearance certificate received at the place where such merchandise was taken on board to the Customs officer to be retained until departure.[10] **[TD 53991.]**

§ 6.17 Alternate transportation procedures for air cargo subject to Customs control.

Cargo (including manifested baggage) arriving by aircraft and to be transported subject to Customs control in, through, or from the United States by aircraft must, if not transported in accordance with other provisions of the regulations of this part, be transported in bond in accordance with the applicable provisions of §§ 6.18 through 6.24. Such cargo so transported shall be referred to as "transit air cargo." For the purposes of these sections, the term "port of arrival" means the port in the United

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[10] "If any merchandise entered or withdrawn for exportation without payment of duties thereon * * * is relanded at any place in the United States without entry having been made, such merchandise shall be considered as having been imported in the United States contrary to law, and each person concerned shall be fined not more than $5,000 or imprisoned not more than 2 years, or both, and such merchandise shall be forfeited." (18 U.S.C. 544.)

States at which the imported cargo must be documented for onward air transportation otherwise than as residue cargo, and the terms "transfer" or "transferred" mean the change to documentation of cargo as transit air cargo for transportation from the port of arrival; this may or may not involve a change of aircraft or airlines but when it does, such terms shall also include the physical movement of the cargo from one to another aircraft. (Secs. 551, 552, 553, 46 Stat. 742, as amended; 19 U.S.C. 1551, 1552, 1553) **[TD 55561.]**

§ 6.18 Documentation for transit air cargo.

(a) The Air Cargo Manifest, Customs form 7509, printed, stamped, or labeled "Transportation Entry and Transit Air Cargo Manifest", shall be used as the transportation entry and the manifest for transit air cargo. The cargo manifest sheet in the inward cargo manifest of the importing aircraft and each copy of that sheet required for a transit air cargo movement shall be printed, stamped, or labeled "Transportation Entry and Transit Air Cargo Manifest". Each transportation entry and transit air cargo manifest sheet ("transit air cargo manifest sheet") shall be a duplicate, insofar as identification of the cargo and other data are concerned, of the corresponding manifest sheet in the inward cargo manifest presented for the aircraft on which the cargo arrives in the United States. **[TDs 55561, 73-1, 79-73.]**

(b) Only air cargo shipments from one country of exportation, the name of which must be shown in the heading, may be listed on any one transit air cargo manifest sheet, or in lieu of such limitation the name of the country of exportation of each shipment must be shown in the "Nature of Goods" column. In addition thereto, only such shipments which are manifested by way of the port of arrival (1) to the same United States Customs port of destination, or (2) to the same United States Customs port for exportation therefrom, or (3) for direct exportation from the port of arrival may be listed on one transit air cargo manifest sheet.

(c) If manifest sheets are not prepared in accordance with paragraph (b) of this section, each cargo shipment manifested thereon, when required to be transported subject to Customs control, must be transported beyond the port of arrival in accordance with other provisions of these regulations requiring individual documentation for the inward transportation or exportation of each shipment (see § 5 and Parts 18 and 123 of this chapter).

(d) When presented, each transit air cargo manifest sheet must show also (1) the foreign port of lading, (2) the date of arrival of the aircraft at the port of arrival, (3) the final country of destination of each shipment, or final port of destination in the United States of each shipment so destined, and (4) each United States port at which a Customs function will be necessary by reason of these transit air cargo procedures. The destination outside the United States must be shown as the actual, ultimate country of destination indicated by available airline shipping documents even though the air transportation may be scheduled to terminate in a country prior to such ultimate destination.

(e) All transit air cargo other than that exported directly from the port of arrival must have affixed thereto before departure from the port of arrival the red warning label prescribed by § 18.4(e) of this chapter.

(f) The transportation entry and transit aircargo manifest must be furnished in the number of copies indicated below for the respective transportation movement: **[TD 73-1.]**

(1) Three copies are required for transit air cargo destined for export directly from the port of arrival;

(2) Four copies are required for transit air cargo moving to a port of destination in the United States from the port of arrival;

(3) Seven copies are required for transit air cargo moving from the port of arrival to another United States port for exportation therefrom. (Secs. 552, 553, 46 Stat. 742, 19 U.S.C. 1552, 1553)

§ 6.19 Identification of transit air cargo manifest sheets.

Upon presentation of the inward cargo manifest of the aircraft on which the cargo arrives at the port of arrival, a manifest number must be assigned by Customs to the aircraft entry documents presented by the aircraft commander or authorized agent. That number must be used by the importing airline to identify all copies of transit air cargo manifests. The number must be given as a prefix an identification of the airport of arrival with the use of the 3-letter city or airport designator (the Air Traffic Service Location Identifier, as referred to by the Federal Aviation Agency); for example, "Idl-3758," or "Bos-296" as the case may be. **[TD 55561.]**

§ 6.20 Conditions for transportation of transit air cargo.

(a) As a condition for Customs release for transportation of air cargo beyond the port of arrival as transit air cargo all required copies of a transit air cargo manifest sheet must be identified as prescribed in § 6.19 prior to presentation to Customs. **[TD 55561.]**

(b) To proceed from the port of arrival as transit air cargo, air cargo must be receipted for in the manner prescribed in paragraph (d) of this section, within the lay order period or any authorized extension (see § 4.37 of this chapter), by the airline which will be responsible for transporting or exporting such cargo.

(c) Transit air cargo may be transported to another port only when receipted for by an airline designated as a common carrier for the transportation of bonded merchandise having on file an appropriate Customs bond for such transportation. Transit air cargo may be exported from the port of arrival only when covered by an exportation bond on Customs Form 7557 or 7559 as specified in section 18.25 of this chapter, or other appropriate bond. The importing airline, whether registered in the United States or a foreign country, if it has been designated a carrier of bonded merchandise as set forth above, may receipt for the air cargo, obligate its appropriate bond, and deliver the air cargo to an authorized domestic carrier for inbond transportation beyond the port of arrival under the importing airline's bond which covers that movement. The responsibility of the receiving airline for transit air cargo otherwise than for direct exportation from the port of arrival begins when a receipt executed as prescribed in paragraph (d) of this section is presented to Customs. If any carting for delivery to a receiving airline is necessary prior to such time, the importing airline remains solely responsible for such cargo under its bond unless such carting is performed under the provisions of Part 21 of this chapter and at the expense of the parties in interest. **[TD 73-1.]**

(d) Each copy of the transportation entry and transit aircargo manifest must bear the following statement legibly signed and dated, if required, when presented to Customs: **[TD 73-1.]**

Received the cargo listed herein for delivery to Customs at the port of destination or exportation shown above, or for direct exportation.

____

Name of Carrier (or Exporter)

____

Attorney or Agent of Carrier (or Exporter)

____

Date

(e) All cargo shipments listed on a transit air cargo manifest sheet must be receipted for by one airline and must be transported from the port of arrival on one aircraft except where the use of more than one aircraft would be permitted by § 6.15(b)(4) in the case of a single combined entry and manifest on Customs Form 7512, or where the use of more than one aircraft is permitted as specified in § 6.24(f). Otherwise, all shipments on the transit air cargo manifest must be individually documented and transported under the regular procedures for transportation of merchandise in bond. (Secs. 552, 553, 46 Stat. 742, 72 Stat. 799; 19 U.S.C. 1552, 1553)

§ 6.21 Timely delivery and exportation.

(a) Transit air cargo destined to a final port of destination in the United States must be delivered to Customs at destination within 15 days from the date of receipt by the forwarding airline at the port of arrival. **[TD 55561.]**

(b) Transit air cargo destined for exportation at a port other than the port of arrival must be delivered to Customs at the port of exportation within 15 days from the date of receipt by the forwarding airline at the port of arrival. If all of the cargo shipments are not exported within the succeeding 15-day periods, the individual cargo shipments must be made the subject of individual entries, as appropriate, at the port of exportation.

(c) In the case of transit air cargo to be exported from the port of arrival, exportation as transit air cargo must be required within 10 days from the date of receipt of the cargo by the exporting airline. After such 10-day period, the individual cargo shipments must be made the subject of individual entries, as appropriate.

§ 6.22 Transportation of transit air cargo to an interior port of destination.

(a) Air cargo shipments may be transferred for transportation as transit air cargo from the port of arrival, under such Customs supervision as the district director deems necessary, to another port in the United States with the use of the following number of copies of transit air cargo manifest sheets: **[TD 55561.]**

(1) A "carrier manifest" copy to accompany the cargo shipments listed thereon and be delivered to Customs at destination;

(2) Three copies for presentation to Customs at the port of arrival at the time of entry of the arriving aircraft or at a subsequent time before expiration of the lay order period. One copy will be used as a "permit" copy by Customs at the port of arrival, one "mail manifest" copy will be mailed by Customs to the port of destination, and one "control" copy will be mailed to the headquarters port for the port of destination. These copies must be presented by or on behalf of the carrier receipting for the transportation of the cargo shipments to destination.

(b) At the port of destination Customs must use the carrier manifest copy for control by noting thereon the disposition of each cargo shipment listed.

(c) Transit air cargo is to be delivered to Customs at destination within 15 days of the date of receipt for it by the forwarding carrier at the port of arrival. When all or part of the cargo covered by the mail manifest copy received at destination from Customs at the port of arrival is not closed out after 30 days from its receipt by a posted carrier manifest copy, the district director must inquire of the receipting carrier as to the whereabouts of the shipment or shipments not accounted for. He must in each case of failure to deliver or irregular delivery of all or part of the transit air cargo make a report to the port of arrival. The report must be made no later than 40 days from the date of receipt of the mail manifest copy. The report must be made to, and action promptly taken thereon by, Customs at the port of arrival in the manner specified in §§ 18.6 and 18.8 of this chapter. At the port of arrival Customs must make the determination of tax and duty due based on information in the report, in the permit copy retained there, and any necessary information obtained from the carriers. **[TD 82-145.]**

(d) Upon receipt of a written notice of failure to deliver, the airline which receipted for the transit cargo must be responsible for furnishing within 90 days to the district director any data or documents available to it or to the importing airline concerning the description and value of the cargo shipments in question.

(e) Penalties imposed as liquidated damages under the common carrier's bond for shortage, failure to deliver, etc., must be the same as prescribed in § 18.8 of this chapter. The penalty set forth in § 18.8 for failure to deliver merchandise shall apply to the failure to deliver merchandise within the time period set forth in paragraph (c) of this section. Under that section the basis for the assessment of liquidated damages is the value of the merchandise. The transit air cargo manifest does not reflect value. Therefore, when it is necessary to determine the value of merchandise shipped as transit air cargo, the value must be determined by the district director on the basis of the data or documents specified in paragraph (d) of this section and such other information available to him relating to merchandise of the same or similar description or origin. However, when the data or documents required to be furnished by paragraph (d) of this section are not received within the 90-day period prescribed, the district director will make his determination of value on the basis of such other information available to him. **[82-14.]**

§ 6.23 Transportation of transit air cargo to another port for exportation.

(a) Air cargo shipments may be transferred for transportation as transit air cargo from the port of arrival, unforeign consignee to whom the shooks or staves were originally exported from this country the certificate or certificates, Customs Form 3311, covering the exportation of the shooks or staves from the United States, or an extract therefrom signed by such consignee, showing the number of shooks or staves covered by such certificate or certificates, together with the number of superficial feet of such shooks or staves. Such Form 3311, or extract therefrom, shall be filed by the importer in connection with the entry of the boxes or barrels. **[TDs 54056, 55941, 78-99.]**

(g) Accounts shall be kept by the district director at the port of exportation of the shooks and staves as to each exportation thereof and as to the returns thereof in boxes, barrels, etc. Notifications of such returns shall be given to the port of exportation by the district director at the port of importation. When returns in the form of boxes, barrels, etc., entirely account for the shooks and staves exported as shown on the appropriate Customs Form 3311, the district director maintaining the account shall so inform the district director making inquiry about the merchandise being imported and alleged to contain shooks or staves covered by the particular exportation. **[TDs 54056, 55941, 78-99.]**

(h) A record of cloth boards of domestic manufacture exported[5] to be wrapped with foreign textiles shall be kept by district director in a similar manner as for shooks and staves. If such boards are advanced in value or improved in condition while abroad, free entry shall be denied on importation. **[TDs 54056, 55978.]**

§ 10.6 Certificates of foreign shipper and box maker.

(a) A foreign shipper desiring to export to the United States boxes or barrels alleged to have been made from American shooks shall execute and send with the invoice covering the merchandise contained in such boxes or barrels a certificate of the foreign shipper, stating that the boxes or barrels were made from American shooks or staves, and identifying the latter with the certificate covering their exportation from the United States. This foreign shipper's certificate shall be in the following form: **[TDs 47559, 53336, 54056.]**

I, ——————————————, of —————————, do hereby certify that to the best of my knowledge and belief the boxes and (or) barrels mentioned in (the annexed invoice)* (invoice No.————, of ————, 19—)* are made (wholly)* (except for the ends and partitions)* of shooks (or staves) of the manufacture of the United States, as stated in the accompanying certificate of ————————, box maker; that the shooks (or staves) were exported from——————, per S.S ————————, on ————, 19—, and that the said boxes (or barrels) (will be)* (have been)* filed with —————, covered by the above-mentioned invoice, and (will be)* (have been)* shipped to the port of ——————— in the United States, per S.S ————————, sailing from ————————, on ——————, 19—.

Dated at—————this———day of—————, 19—

(Shipper)

(b) There shall be annexed to the certificate of the foreign shipper, on the same or a separate form, a certificate of the box maker, stating that the boxes or barrels were made from American shooks or staves and showing the number of boxes or barrels in the shipment, the dimensions of each, and number of shooks or staves of each size, together with the number of superficial feet of lumber used. This certificate shall be in the following form:

I,———————, of——————, do hereby certify that the boxes and (or) barrels mentioned in the annexed certificate of foreign shipper were made by me (wholly)* (except for the ends and partitions)* from shooks (or staves) of the manufacture of the United States as follows:

Number of boxes or barrels	Dimensions	Number of shooks or staves used and size thereof	Number of superficial feet used

Dated at ————————, this ———— day of —————————, 19——.

(Box maker)

(c) If a claim accompanied by an appropriately modified Customs Form 3311 is made by the importer at the time of filing the entry for an exemption from duty on account of boxes or barrels made from American shooks or staves, the certificate of the foreign shipper with the annexed certificate of the box maker may be accepted if produced at any time prior to the liquidation of the entry. Upon receipt, from the district director at the port of exportation of the shooks and staves, of corroboration that the records of exportation do not conflict materially with such claim, the exemption may be allowed. If the claim for an exemption is disallowed in full or in part, the importer may file a request within 15 days of the date of the district director's notice to him of any disallowance, for referral of the question to the Commissioner of Customs for review. **[TD 54056.]**

§ 10.7 Substantial containers or holders.

(a) Except as provided for in § 10.2(b), substantial containers or holders, which are products of the United States, which are of the usual and ordinary types used in the shipment or transportation of goods, which are reusable for such purposes, and which are imported containing or holding merchandise, shall be entered under the general regulations governing the free entry of domestic products exported and returned. When such containers or holders are imported not containing or holding merchandise they may be admitted without entry if readily identifiable as products of the United States. **[TDs 44148, 47559, 49585, 49658, 53687, 55978.]**

(b) Substantial containers or holders, which are of foreign production and previously imported duty paid, which are of the usual or ordinary types used in the shipment or transportation of goods, which are reusable for such purpose, and which are imported containing or holding merchandise, shall be exempt from duty if (1) exported in accordance with the regulations contained in § 10.5 (d) and (e), and (2) there is filed in connection with the entry a certificate of the foreign shipper in the form prescribed by paragraph (c) of this section **[CD 450. TDs 30404, 34955, 39623, 49658, 54056, 55941, 55978, 82–145.]**

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[5] Cloth boards of domestic manufacture are conditionally free of duty under schedule 8, part 1, Tariff Schedules of the United States. See footnote 1 of this part.

*Cross out inapplicable words.

(c) The certificate to be furnished by the foreign shipper for the use of the collector at the port of entry shall be in the following form: **[TDs 49658, 54056, 55978.]**

I,——————————, of——————————, do hereby certify that to the best of my knowledge and belief the substantial containers and holders mentioned in (the annexed invoice) (invoice No.————of ————, 19—)* are of the manufacture of ——————————and were exported from the United States at the port of————————, per S.S. ———— ———— on ————, 19—, and that the same are being returned to the United States (empty) filled with ————) (holdings ——————————).*

____
Shipper

(d) The district director, after verification of the foreign shipper's certificate with the records of the district director at the port of exportation in this country, shall allow free entry to the extent the basis for such allowance is verified. The procedure in the last two sentences of § 10.6(c) shall be applicable. **[TDs 54056, 55978.]**

(e) If claim for exemption from duty for such containers or holders of foreign production previously imported duty paid is made at the time of entry, the certificate of the foreign shipper may be accepted if produced at any time prior to the liquidation of the entry. **[TDs 49658. 54056. 55978.]**

(f) When such containers or holders of foreign production previously imported duty paid are reimported empty, they may be admitted without entry if readily identifiable as having been previously imported duty paid. **[TD 55978.]**

§ 10.8 Articles exported for repairs or alterations.

(a) Before exporting articles which are subject on return to the United States to duty on the value of the repairs or alterations performed abroad, as provided for in item 806.20, Tariff Schedules of the United States, a Certificate of Registration (top portion of Customs Form 4455) shall be filed (in an original only) by the owner or exporter with the district director before the departure of the exporting conveyance. This procedure will permit the district director to examine the articles before they are exported. The applicant shall be notified by the district director of the place to which he shall deliver the articles for examination. All expense in connection with the delivery of the articles, cording, sealing, marking, and transfer to the exporting conveyance, shall be paid by the exporter. Except for those articles exported by mail which can be identified by manufacturer's mark or number, the district director may require the articles to be exported under Customs supervision. If supervision is required, a photograph of the article or some other means of identification, shall be furnished to the Customs officer. **[Abs. 4827. CDs 438, 717. CIE 761/40. TDs 33890, 35330, 44212, 44757, 47304, 49658. 50249(3). 54995, 55978, 72–119, 82–49.]**

(b) When the report of the Customs officer showing the examination of the articles and their lading on the exporting conveyance or their delivery for mailing has been endorsed on the Customs Form 4455 covering such articles, the form shall be given to the exporter for use in connection with the return of the articles. If the articles are being exported through the mails and the Customs Form 4455 has been completed in duplicate, the Customs officer shall enclose the duplicate copy of the form in the package being exported. The owner or exporter, in all other cases, may enclose a duplicate copy of the certificate with the articles being exported in any other manner for repairs or alterations. In order to facilitate the entry of articles, regardless of the mode of exportation, the foreign shipper may include a duplicate copy of the registration certificate, completed prior to exportation, in the returned package. **[TDs 53336. 53611. 55978. 72–119.]**

(c) When an exporter resides more than 20 miles from a Customs office, articles being exported for repairs or alterations through the mail, may, in accordance with the following procedures which have been approved by the Post Office Department, be exported through a local post office: **[TDs 55978. 72–119.]**

(1) The articles shall be delivered to the postmaster in an unpacked condition;

(2) Customs Form 4455 completed in original and duplicate shall be presented to the postmaster with the articles;

(3) The original Customs Form 4455 with the Certificate of Registration executed by the postmaster shall be returned to the exporter for use, if necessary, in clearing articles on their return to the United States;

(4) The duplicate Form 4455 shall be enclosed in the parcel with the articles being exported and shall accompany the articles on their return to the United States to facilitate processing the entry; and

(5) The exporter shall bear all expense incurred under this procedure, including charges assessed by the U.S. Postal Service.

(d) When articles other than those exported by mail or parcel post are examined and registered at one port and exported for repair or alterations through another port, the district director may require proof of exportation in those cases where the Customs Form 4455 does not reflect that the subject articles were exported under Customs supervision. **[TDs 55978. 72–119. 82–49.]**

(e) There shall be filed in connection with an entry covering articles entered under the provisions of item 806.20, a declaration from the person who performed such repairs or alterations in substantially the following form: **[TD 55978. 72–119.]**

____
(Place and date)

I, ————————————, declare that the articles herein specified are the articles which, in the condition in which they were exported from the United States, were received by me (us) on ————, 19——, from ———————————— (Name and address of owner or exporter in the United States); that they were received by me (us) for the sole purpose of being repaired or altered; that only the repairs or alterations described below were performed by me (us); that the full cost or (when no charge is made) fair market value of such repairs or alterations are correctly stated below; and that no substitution whatever has been made to replace any of the articles originally received by me (us) from the owner or exporter thereof mentioned above.

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*Cross out inapplicable words.

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Now, therefore, the condition of this obligation is such that—

(1) If the serially numbered lift vans, cargo vans, shipping tanks, skids, pallets, and other substantial holders or outer containers of United States manufacture for which free release is claimed under item 800.00, Tariff Schedules of the United States, are not advanced in value or improved in condition while they are abroad and no drawback is (or has been) claimed on their exportation, and if in the case of such holders or containers of foreign manufacture for which free release is claimed under the second provision of item 808.00, Tariff Schedules of the United States, the provisions of that item are complied with:

(2) If the above-bounden principal marks such holders or containers in the manner prescribed by the United States Customs Service and keeps adequate records, open to inspection by Customs officers, showing the current status of the holders and containers in service and the disposition made of holders and containers taken out of service;

(3) If the above-bounden principal strikes out or removes the markings from holders and containers when they are taken from service or when ownership is being transferred;

Then this obligation shall be void; otherwise it shall remain in full force and effect for the payment of liquidated damages in an amount equal to the domestic value of the article established in accordance with section 606, Tariff Act of 1930, not exceeding the sum named in this obligation, for any breach or breaches thereof.

Signed, sealed, and delivered in the presence of—

____
(Name) (Address)

____
(Name) (Address)
———————(seal)
(Principal)

____
(Name) (Address)

____
(Name) (Address)
———————(seal)
(Surety)

____
(Name) (Address)

____
(Name) (Address)
———————(seal)
(Surety)

(77A Stat. 14, 409, Sec. 623, 46 Stat. 759, as amended, 19 U.S.C. 1202 (Sch. 8, pt. 1C, hdnote. 3(a)), 1623)

Articles for Institutions

§ 10.43 Requirements on entry.

(a) The importer of articles claimed to be exempt from duty under item 850.10, 850.40, 850.70, 851.10, 851.20, 851.30, 851.40, or 851.50, Tariff Schedules of the United States,[39] shall file, as evidence that such articles are entitled to free entry, a declaration on Customs Form 3321 of an executive officer or other authorized representative of the institution for the use of which the articles are imported. If this declaration is not filed at the time of entry, the importer may deposit the estimated duties payable when the articles are not free of duty or post bond for the subsequent production of the declaration. (See § 113.42 of the regulations of this chapter.) **[TDs 29995, 34980, 37938, 38893, 45369, 52990, 53087, 53336, 55132, 55758, 55978, 67-108, 71-139, 74-227.]**

(b) The district director may require a copy of the charter or other evidence of the character of the institution for the use of which the articles are imported. **[TDs 39998, 55132, 55978.]**

§ 10.44 Declaration of importer of record.

When the importer of record of articles claimed to be exempt from duty under item 850.10, 850.40, 850.70, 851.10, 851.20. 851.30, 851.40 or 851.50, Tariff Schedules of the United States, is not the institution for the use of which the articles are imported, the importer of record shall file a declaration on Customs Form 3321 identifying the institution for the use of which the articles were imported. **[Abs. 45712. TDs 29995, 30525, 31861, 34980, 52111, 53087, 54513, 54814, 55758, 55978.]**

§ 10.46 Articles for the United States.

Pursuant to items 830.00 and 831.00, Tariff Schedules of the United States,[41] books, engravings, and other articles therein enumerated, which are imported by authority or for the use of the United States or for the use of the Library of Congress, shall be admitted free of duty upon compliance with §§ 10.43-10.45, or upon the written request of the head of the bureau or executive department concerned. **[TDs 38328, 52542, 54971, 55978, 67-108.]**

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[39] "Articles imported for the use of an institution established solely for religious purposes:

"Drawings, engravings, etchings, lithographs, woodcuts, sound recordings, recorded video tapes, and photographic and other prints, all the foregoing whether bound or unbound, and exposed photographic films (including motion-picture films) whether or not developed * * *." (Item 850.10, Tariff Schedules of the United States.)

"Regalia * * *." (Item 850.40, Tariff Schedules of the United States.)

"Articles imported for the use of an institution organized and operated for religious purposes, including cemeteries, schools, hospitals, orphanages, and similar nonprofit activities staffed and controlled by such institution: Altars, pulpits, communion tables, baptismal fonts, shrines, mosaics, iconostases, or parts, appurtenances, or adjuncts of any of the foregoing, whether to be physically joined thereto or not, and statuary (except granite or marble cemetery headstones, granite or marble grave markers, and granite or marble feature memorials, and except casts of plaster of Paris, or of compositions of paper or papier-meche) * * *." (Item 850.70, Tariff Schedules of the United States.)

"Articles imported for the use of any public library, and other public institutions, or any nonprofit institution established for educational, scientific, literary, or philosophical purposes, or for the encouragement of the fine arts:

"Drawings and plans, reproductions thereof, engravings, etchings, lithographs, woodcuts, globes, sound recordings, recorded video tapes, and photographic and other prints, all the foregoing whether bound or unbound, and exposed photographic films (including motion-picture films) whether or not developed * * *." (Item 851.10, Tariff Schedules of the United States.)

"Regalia * * *." (Item 851.30, Tariff Schedules of the United States.)

"Any textile machine or machinery, or part thereof, solely for the instruction of students * * *." (Item 851.40, Tariff Schedules of the United States.)

"Patterns and models exclusively for exhibition or educational use at any such institution * * *." (Item 851.50, Tariff Schedules of the United States.)

[41] "Articles for the use of any agency of the United States Government. Engravings, etchings, photographic prints, whether bound or unbound, recorded video tapes, and exposed photographic films (including motion-picture films) whether or not developed * * *." (Item 830.00, Tariff Schedules of the United States.)

"Articles for the Department of State: Sound recordings and recorded video tapes for use by it in the program authorized by the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1431-1479) * * *." (Item 831.00, Tariff Schedules of the United States.)

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§ 10.47 Scientific specimens.

There shall be filed in connection with an entry covering any articles claimed to be free under item 870.27, Tariff Schedules of the United States, a declaration of the importer of record stating that the subject articles are imported for public or private scientific collection for exhibition or other educational or scientific use as the case may be and are not for sale or other commercial use.[42] **[TD 67-108]**

Works of Art

§ 10.48 Engravings, drawings, sculptures, etc.

(a) Invoices covering works of art claimed to be free of duty under items 765.10, 765.15, 765.20, 765.25, Tariff Schedules of the United States,[43] shall show whether they are originals, replicas, reproductions, or copies, and also the name of the artist who produced them, unless upon examination the appraiser is satisfied that such statement is not necessary to a proper determination of the facts. **[TDs 38261, 39083, 41263, 42428, 55132, 55978, 67-108.]**

(b) The following evidence shall be filed in connection with the entry: **[TDs 36330 (Q. 63), 36725, 41263, 42428, 53399, 54118, 54183, 55132, 67-108, 70-59.]**

(1) A declaration in the following form by the artist who produced the article, showing whether it is original, or, in the case of sculpture, the original work or model or one of the first ten castings, replicas, or reproductions made from the original work or model; and in the case of etchings, engravings, woodcuts, lithographs, or prints made by other hand transfer processes, that they were printed by hand from hand-etched, hand-drawn, or hand-engraved plates, stones, or blocks:

I, ————————————, do hereby declare that I am the producer of certain works of art, namely ————————————— covered by the annexed invoice dated —————; that any mosaics included in that invoice are originals; that any sculptures or statuary included in that invoice are the original works or models or 1 of the first 10 castings, replicas, or reproductions made from the sculptor's original work or model; and that any etchings, engravings, woodcuts, lithographs, or prints made by other hand-transfer processes included in that invoice were printed by hand from hand-etched, hand-drawn, or hand-engraved plates, stones, or blocks.

(2) A declaration of the seller or shipper giving the information specified in subparagraph (1) of this paragraph, if it be shown that it is impossible to produce the declaration of the artist. **[TD 54183.]**

(c) The declaration of the artist, or the declaration of the seller or shipper in lieu thereof, may be waived upon a satisfactory showing that it is impossible to produce either, but the declaration of the importer shall be required in all cases. **[CD 280. TDs 38089, 46258, 54183.]**

(d) Artists' proof etchings, engravings, woodcuts, lithographs, or prints made by other hand transfer processes should bear the genuine signature or mark of the artist as evidence of their authenticity. In the absence of such a signature or mark, other evidence shall be required which will establish the authenticity of the work to the satisfaction of the district director. **[TDs 53319, 55132.]**

(e) In the case of articles claimed to be free under item 765.25, Tariff Schedules of the United States, the district director may require proof of the character of the article, including, when necessary, certificates from curators or other recognized authorities on art, that the imported article represents some school, kind, or medium of the free fine arts. **[TDs 55132, 55978.]**

§ 10.49 Articles for exhibition; requirements on entry.

(a) There shall be filed in connection with the entry of works of art and other articles claimed to be free of duty under schedule 8, part 5B, Tariff Schedules of the United States,[44] a declaration by a qualified officer of the institution on Customs Form 3325, and a bond on Customs Form 7565. Claim for free entry under schedule 8, part 5B may be made for articles of the character described therein which have been previously entered under any other provision of law and the entry amended accordingly upon compliance with the requirements of this section, provided the articles have not been released from Customs custody. **[TDs 30164, 38082, 42917, 48690, 52488, 53336, 54118, 55132, 55978.]**

(b) The district director may require a copy of the charter or other evidence of the character of the institution for which the articles are imported, and may also require the production of the original of any order given by such society or institution to any importing agent or dealer for such articles. **[TDs 37034, 38992.]**

(c) Articles entered under item 862.10, Tariff Schedules of the United States may be transferred from one institution to another upon an application in writing in the case

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[42] "Specimens of archeology, mineralogy, or natural history (including specimens of botany or zoology other than live zoological specimens) imported for any public or private scientific collection for exhibition or other educational or scientific use, and not for sale or other commercial use * * *" (Item 870.27, Tariff Schedules of the United States.)

[43] "Engravings, etchings, lithographs, woodcuts, and other prints, all the foregoing, unbound, and printed by hand from plates, stones, or blocks, etched, drawn, or engraved with hand tools * * *." (Item 765.10, Tariff Schedules of the United States.)

"Original sculptures and statuary (including the first 10 castings, replicas, or reproductions made from a sculptor's original work or model with or without a change in scale and whether or not the sculptor is alive at the time the castings, replicas, or reproductions are completed), all the foregoing made in any form from any material as the professional productions of sculptors only whether in round or in relief, and whether cut, carved, or otherwise wrought by hand or cast * * *" (Item 765.15, Tariff Schedules of the United States.)

"Original mosaics * * *" (Item 765.20, Tariff Schedules of the United States.)

"Original works of the free fine arts not provided for in the foregoing provisions of this part, in any media including, but not limited to, applied paper and other materials, manufactured or otherwise, such as are used on collages * * *." (Item 765.25, Tariff Schedules of the United States.)

[44] "1. The provisions of this subpart do not apply to articles intended for sale or for any purpose other than exhibition or erecting a public monument, nor do they apply to any institution or society engaged in or connected with business of a private or commercial character. Articles admitted under item 862.10 may be transferred from an organization specified therein to another such organization, or temporarily to a commercial gallery or other premises, for exhibition and not for sale.

"2. Prior to the release of articles under item 862.10 or 862.20, bond shall be given for the payment of lawful duties which may accrue should any of the articles be sold, transferred, or used contrary to the provisions of this subpart within 5 years after the date of entry hereunder, and such articles shall be subject at any time within such 5-year period to examination and inspection by customs officers. Surety on such bonds may be waived in the discretion of the Secretary of the Treasury.

"Item 862.10 Articles imported for exhibition by any institution or society established for the encouragement of agriculture, arts, education, or science, or for such exhibition by any State or for a municipal corporation * * *."

"Item 862.20 Articles imported by any institution, society, or State, or for a municipal corporation, for the purpose of erecting a public monument * * *." (Schedule 8, part 5B Tariff Schedules of the United States.)

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of each transfer describing the articles and stating the name of the institution to which transfer is to be made, provided the sureties to the bond assent in writing under seal or a new bond is filed. No entry or withdrawal shall be required for such a transfer. **[TDs 42917, 55978.]**

(d) If any of the articles accorded free entry under schedule 8, part 5B shall be sold, offered or exposed for sale, transferred, or used in any manner contrary to the provisions of the regulations in this part, within 5 years after the date of entry under such part, the amount of the duties shall be collected immediately by the district director at the port of entry and deposited as duties. If the articles are exported or destroyed under Customs supervision within such 5-year period, the liability under the bond shall be treated as terminated. **[TDs 48508, 49722 (2), 53336, 55978.]**

§ 10.50 Works of American artists.

When works of art produced by American artists residing temporarily abroad are claimed to be free of duty under item 765.30, Tariff Schedules of the United States,[45] the importer shall file a declaration of the artist which shall be on or attached to the invoice and shall state: **[TDs 53399, 54056, 54118, 54183, 55978, 70-59.]**

I, ————————————, do hereby declare that I am a citizen of the United States of America, and by profession ————————— (Artist or sculptor); that my place of residence in the United States is————————————; that I departed from the United States of America on or about ————————————, 19—, to take up my temporary residence at ——————————; and that I have not given up, and that it is not my intention to give up, my residence in the United States, and I intend to return ultimately to the United States. I further declare that the ——————————————— (Briefly identify the works of art) described in the invoice herewith were produced by me during my temporary residence abroad at ————————————, during the year 19—.

This declaration may be executed on commercial invoices when a purchase is involved or on a pro forma invoice when the artist and the importer are the same person and shall be attached to the entry papers used to effect clearance.

§ 10.52 Painted, colored or stained glass windows for religious institutions.

When painted, colored, or stained glass windows, or parts thereof, are claimed free of duty under item 850.30, Tariff Schedules of the United States,[47] the importer shall file in connection with the entry a declaration on Customs Form 3321, declaring that the importation was designed by, and produced by or under the direction of, a professional artist, and that it is for the use of an institution established solely for religious purposes. **[TD 35462, 53268, 54201, 54513, 55758, 55978.]**

§ 10.53 Antiques.

(a) Regardless of the value of articles, the invoices filed in connection with the entry of antiques and other articles under items 766.20 and 766.25, Tariff Schedules of the United States,[48] shall contain, if practicable, a statement by the seller or other person having competent knowledge of the facts stating the place and approximate date of production of the articles. In the case of the entry of such articles subject to Foreign Assets Control regulations, the invoices filed in connection with the entry shall contain a declaration by the actual foreign vendor, if the merchandise is shipped in pursuance of a purchase or agreement to purchase, or by the foreign owner, if the merchandise is shipped otherwise. The declaration shall show the name and address of the person from whom the articles were acquired by the vendor or owner, as the case may be. The declaration shall also show the date when so acquired, and, if practicable, the place and approximate date of production. A declaration executed on the invoice by an agent of the vendor or owner, competent to verify the value and other statements set forth in the invoice, may be accepted as a sufficient compliance with this regulation. The declaration may be waived by the district director in any case in which he is satisfied that (1) failure to produce it is not due to any lack of diligence or good faith on the part of the importer and that (2) the information is not required for any purpose in connection with the classification and appraisement of the articles: *Provided*, The declaration of the owner in this country or of the person in this country importing otherwise than in pursuance of a purchase or agreement to purchase, required by paragraph (b) of this section, is supplemented by a statement of such owner or person, giving all the facts within his knowledge tending to show how long the articles have been in existence and where they were produced. **[TDs 42299, 44361, 45257, 46622, 53268, 53336, 55132, 55978, 56182, 67-108.]**

(b) At the time of entry of articles under item 766.20 or 766.25, Tariff Schedules of the United States, the following shall be required on the reverse of Customs Form 7501: **[TDs 42372, 46622, 52582, 53268, 54118, 70-59, 75-209, 75-279]**

The articles entered herein are being imported for —————. (State whether for sale or personal use.)

(c) Articles accompanying a passenger and entitled to entry under the passenger's declaration and entry, or articles entered under an informal entry which are claimed to be free of duty under item 766.20 or 766.25, Tariff Schedules of the United States, may be admitted free of duty upon the execution of a declaration on the face of the entry provided that the passenger or person filing the informal entry is the owner of the articles and that they are for his personal use and not for sale or other commercial use and provided the Customs officer concerned is satisfied that the articles are of the requisite age. **[TDs 53268, 55978, 66-186, 70-59.]**

(d) Antiques of the age prescribed by items 766.20 and 766.25, Tariff Schedules of the United States, or admitted under the provisions of paragraph (g) of this section, shall be

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[45] "Works of art which are productions of American artists residing temporarily abroad * * *." (Item 765.30, Tariff Schedules of the United States.)

[47] "Painted, colored or stained glass windows and parts thereof, all the foregoing valued over $15 per square foot and designed by, and produced by or under the direction of, a professional artist * * *." (Item 850.30, Tariff Schedules of the United States.)

[48] "Ethnographic objects made in the traditional aboriginal styles and made at least 50 years prior to their date of entry; and other antiques made prior to 100 years before their date of entry; all the foregoing articles including such articles which have been repaired or renovated without changing their original form or character: * * * other * * * Free." (Item 766.25, Tariff Schedules of the United States.)

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admitted free of duty though repaired or renovated. If, however, an antique has been repaired with a substantial amount of additional material, without changing the original form or shape, the original and added portions shall be appraised and reported as separate entities and the basis for such report shall be plainly indicated on the invoice by the appraiser. In such cases duty shall be assessed on the portion added. If the repairs consist of an addition to an article of a feature which changes it substantially from the article originally produced, or if the antique portion has otherwise been so changed as to lose its identity as the article which was in existence prior to the time prescribed in items 766.20 and 766.25, Tariff Schedules of the United States, the entire article shall be excluded from free entry under items 766.20 and 766.25, Tariff Schedules of the United States. **[TDs 37394, 39024, 41986, 42624, 43052, 44423, 44751, 45257, 55978, 56066.]**

■ (e) Except for furniture admitted under the provisions of paragraph (g) of this section, furniture claimed to be free of duty under item 766.20 or 766.25 may be entered for consumption at any port of entry within the customs territory of the United States. **[TDs 44165, 44240, 44241, 53399, 55132, 55978, 56402, 66–186, 82–148.]**

(f) A claim for the free entry of an article under items 766.20 and 766.25, Tariff Schedules of the United States on the basis of antiquity may be made on the entry, or filed after entry at any time prior to liquidation of the entry, provided the article has not been released from Customs custody or it has been found upon examination before such release to be described in items 766.20 and 766.25, Tariff Schedules of the United States. **[TDs 51608, 52084, 53175, 55978.]**

■ (g)(1) Antique articles (other than scrimshaw) otherwise prohibited entry by the Endangered Species Act of 1973 (16 U.S.C. 1521, *et seq.*) may be entered if the article:

(i) Is composed in whole or in part of any endangered or threatened species listed in 50 CFR 17.11 or 17.12,

(ii) Was made before 1830,

(iii) Has not been repaired or modified with any part of any such endangered or threatened species, on or after December 28, 1973,

(iv) Is entered at a port designated in section 12.26 of this chapter.

(v) A "Declaration for Importation or Exportation of Fish or Wildlife" (USFWS Form 3–177) is filed at the time of entry with the district director of Customs who will forward the form to the U.S. Fish and Wildlife Service, and

(vi) The importer meets the requirements of paragraphs (a), (b), and (c) of the section.

(2) Scrimshaw is defined as an art form which involves the etching and engraving of designs upon, or the carving of figures, patterns, or designs from, any bone or tooth of any marine mammal of the order Cetacea. **[TDs 44522, 55978, 56–186, 82–148.]**

(h) The additional duty of 12.5 percent or 25 percent, as appropriate imposed by item 766.30, Tariff Schedules of the United States,[50] shall apply to any article which is imported for sale and claimed, either at the time of entry or at a later date, to be free of duty under items 766.20 and 766.25, Tariff Schedules of the United States if such article is later found to be unauthentic in respect of the antiquity claimed as a basis for such free entry, unless the claim under items 766.20 and 766.25, Tariff Schedules of the United States is withdrawn in writing before the examination of the article for the purpose of appraisement or classification has begun. **[CD 95, 428. TDs 44348, 44165, 44522, 55978, 78–46.]**

(i) The 12.5 percent or 25 percent, as appropriate additional duty provided for in item 766.30, Tariff Schedules of the United States shall not be assessed if the importer established by evidence satisfactory to the district director that the article was not imported for sale. In the case of any article imported in a passenger's baggage or entered under an informal entry, the Customs officer concerned may accept the statement of the owner that the article was not imported for sale if he is satisfied of the truth of such statement. (Sec. 481, 46 Stat. 719, Sch. 7, pt. 11B, hdnote. 2, 77A Stat. 890; 19 U.S.C. 1481, 1202 (Sch. 7, pt. 11B, hdnote. 2)) **[TDs 44201, 46989, 48134, 55978, 56066, 66–186, 78–46, 56402.]**

§ 10.54 Gobelin and other hand-woven tapestries.

(a) Pursuant to item 364.05, Tariff Schedules of the United States,[51] Gobelin tapestries produced in the Manufacture Nationale des Gobelins factories at Paris and Beauvais under the direction and control of the French Government, and other hand-woven tapestries, shall be accorded free entry if of a kind fit only for use as wall hangings, and valued over $20 per square foot. **[TDs 44201, 46989, 55132, 55978.]**

(b) A certificate executed by the manager or other responsible employee of the Gobelin or other factory or producer establishing the character of the article shall accompany the invoice. If the absence of such a certificate is satisfactorily explained, other evidence establishing the necessary facts may be accepted. **[TDs 53268, 54056, 55132.]**

Vegetable Oils

§ 10.56 Vegetable oils, denaturing; release.

(a) Olive, palm-kernel, rapeseed, sunflower, and sesame oil shall be classifiable under items 176.28, 176.32, 176.44, 176.45, 176.49, or 176.54, Tariff Schedules of the United States, if denatured abroad or under Customs supervision after importation but before release from Customs custody, at the request and expense of the importer, by a formula prescribed by Headquarters, U.S. Customs Service, or if by their method of production abroad they are rendered unfit for use as food or for any but mechani-

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[49] "Furniture" as used in this section of the regulations is defined as "movable articles of convenience or decoration for use in furnishing a house, apartment, place of business, or of accommodation". This definition embraces most articles claimed to be free of duty as antiques.

[51] "Gobelin and other hand-woven tapestries fit only for use as wall hangings, and valued over $20 per square foot * * *." (Item 364.05, Tariff Schedules of the United States.)

[50] "Any article imported for sale and claimed to be classifiable under item 766.20 or item 766.25, and thereafter determined to be not authentic in respect to the antiquity claimed as a basis for classification thereunder * * * a [column 1] duty of 12.5 percent ad val.* * * [or] a [column 2] duty of 25 percent ad val. in addition to any other duty imposed on such article under these schedules." (Item 766.30, Tariff Schedules of the United States.)

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cal or manufacturing purposes. **[TDs 29957, 29976, 30006, 32056, 32807, 32859, 33827, 34215, 39491, 39519, 42726, 43274, 44107, 44550, 48114, 48255, 48613, 49324, 50622, 51994, 55978.]**

(b) Each cask or package of oil claimed to have been before importation denatured or otherwise rendered unfit for use as food or for any but mechanical or manufacturing purposes shall be sampled and tested by an appraising officer.

(c) Formulas prescribed by Headquarters, U.S. Customs Service, except proprietary mixtures, will be circulated to all Customs officers and will appear as abstracts of United States Customs Service decisions published in the weekly Customs Bulletins. Proprietary mixtures approved by the Commissioner of Customs will not be published but appropriate notice of their approval will be given to all Customs officers. **[TDs 49324, 50622, 51994, 55131, 55335.]**

(d) The Headquarters, U.S. Customs Service will from time to time prescribe additional formulas, and will consider any formula for special denaturing that may be submitted.

(e) The district director may, if he deems it advisable, require an importer requesting permission to use any authorized denaturant to submit to the appraiser an adeposit of estimated duties, in addition to the regular entry bond, shall be required.

(e) When a passenger arriving in the United States with one or more dogs or cats and with the required certificates of pedigree and transfers of ownership in his possession furnishes a properly executed declaration as required by § 10.70(a) along with an application to the Department of Agriculture on ANH Form 17-338 for a certificate of pure breeding, the entry of the animal(s) as duty-free under item 100.01, Tariff Schedules of the United States, may be made on the passenger's baggage declaration if the value of the animals does not exceed $500. In such case the entry shall be supported by a bond on Customs Form 7551 or 7553 for the production within 6 months of a certificate of pure breeding. The bond shall be without surety or cash deposit unless the district director of Customs on the basis of information before him finds that a bond with surety or a cash deposit is necessary to protect the revenue. **[TD 68-79, 68-154, 78-99.]**

(f) Under conditions corresponding to those set forth in paragraph (e) of this section, dogs and cats having a value or not to exceed $250 that arrive unaccompanied by the importer may be entered on an informal entry (Customs Form 5119-A) under item 100.01, Tariff Schedules of the United States, without a deposit of estimated duty when supported by a bond on Customs Form 7551 or 7553 which may be without surety or cash deposit to the same extent and under the same conditions as provided in paragraph (e) of this section. The declaration required by § 10.70(a) shall be submitted in letter form. (Sec. 486, 46 Stat. 725, as amended, sec. 101, 76 Stat. 72; 19 U.S.C. 1486; item 100.01, Tariff Schedules of the United States) **[TD 68-79, 68-154, 78-99.]**

§ 10.72 Horses and mules for immediate slaughter.

Horses or mules claimed to be entitled to free entry under item 100.70, Tariff Schedules of the United States,[66] shall be admitted free of duty upon the submission of a declaration in connection with the entry stating that the animals are being imported solely for slaughter, provided the district director is satisfied from an examination of the animals and such other investigation as he deems necessary that no other use is intended. **[TDs 53268, 55978.]**

§ 10.73 Cows for dairy purposes.

Claim for the reduced rate of duty on cows for dairy purposes under item 100.50, Tariff Schedules of the United States,[67] shall be made at the time of entry. There shall be filed in connection with the entry a certificate of the ultimate consignee that the animals were imported in good faith for dairy purposes and that they have actually been delivered to a dairy, farm, or other place suitable for dairy operations, the address of which shall be stated. If the ultimate consignee is not the importer of record, the latter also shall file a certificate executed by himself that the animals are being imported in good faith for dairy purposes. **[TDs 48057, 53268, 53399, 55978.]**

Tariff Act of 1930, paragraph	Description of products	Rate of duty
701	Cattle weighing less than 200 pounds each or 700 pounds or more each	1 1/2¢ per lb.
	Provided, That not more than 200,000 head of cattle weighing less than 200 pounds each entered in the 12-month period beginning Apr. 1 in any year, and not more than 400,000 head of cattle weighing 700 pounds or more each (other than cows imported specially for dairy purposes) entered in any such period, but not more than 120,000 head of such cattle weighing 700 pounds or more each entered in any 3-month period beginning Apr. 1, July 1, Oct. 1, or Jan. 1 within any such 12-month period, shall be dutiable at 1 1/4 cents per pound; and any of the foregoing cattle not subject to that rate of duty shall be dutiable at	2 1/2¢ per lb.
	(Second proviso obsolete.)	

§ 10.74 Animals straying or driven across boundary for pasturage; offspring.

(a) When domestic animals for which free entry is to be claimed under item 100.03, Tariff Schedules of the United States,[68] are driven across the boundary for pasturage purposes, the owner shall file with the district director a descriptive list stating the number of animals, their sex, age, and marks or brands, together with a written statement that the animals therein described are being taken abroad for temporary pasturage purposes only. **[TDs 40740, 55978.]**

(b) Upon the return of such animals within 8 months, entry shall be required and there shall be filed in connection therewith a declaration in the following form:

I, ————————, do solemnly declare that I am a resident of ————————; that the animals now being returned to the United States are ——— (Number) of the identical animals described in the list filed with the district director at the port of ——————————— on the ——— day of ————————, 19——; and that ——— (Number) of their offspring accompany said animals.

(c) Animals which have strayed across the boundary line may be returned under the above-mentioned provi-

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[66] "Horses and mules: Imported for immediate slaughter * * *." (Item 100.70, Tariff Schedules of the United States.)

[67] "Cattle: Weighing 700 pounds or more each: Cows imported specially for dairy purposes * * *." (Item 100.50, Tariff Schedules of the United States.)

[68] "Animals, domesticated, straying across the boundary line into any foreign country, or driven across such boundary line by the owner for temporary pasturage purposes only, together with their offspring: If brought back to the United States within 8 months * * *." (Item 100.03, Tariff Schedules of the United States.)

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sion of law, together with their offspring, without entry if brought back within 30 days; otherwise entry shall be required: *Provided*, That the owner of any such animal shall report its return to the nearest Customs officer and hold it for such inspection and treatment as may be deemed necessary by a representative of the Agricultural Research Service of the Department of Agriculture and any such animal found not to have been so reported or held shall be subject to seizure and forfeiture pursuant to section 545, Title 18, United States Code. **[TD 55039.]**

§ 10.75 Wild animals and birds; zoological collections.

When wild animals or birds are claimed to be free of duty under item 852.20, Tariff Schedules of the United States,[69] there shall be filed in connection with the entry a declaration of the ultimate consignee on Customs Form 3321, showing that the animals or birds were specially imported pursuant to negotiations conducted prior to importation for the delivery of animals or birds of a named species meeting agreed specifications of reasonable particularity and that they are intended at the time of importation for public exhibition in a collection maintained for scientific or educational purposes and not for sale or for use in connection with any enterprise conducted for profit. The fact that an animal or bird may have been sent on approval shall not preclude free entry under said item 852.20 when it is actually accepted as a part of the zoological collection and so exhibited. **[TDs 16576, 53399, 55978.]**

§ 10.76 Game animals and birds.

(a) The following classes of live game animals and birds may be admitted free of duty for stocking purposes under the provisions of item 100.05, Tariff Schedules of the United States,[70] without reference to the United States Customs Service, if the requirements of the Fish and Wildlife Service, Department of the Interior, have been complied with. **[TDs 44467, 46255, 40199, 55978.]**

Animals

1. Cervidae, commonly known as deer and elk.
2. Leporidae, commonly known as rabbits.
3. Sciuridae, commonly known as squirrels.

Birds

1. Anatidae, commonly known as ducks and geese.
2. Gallinae, commonly known as turkeys, grouse, pheasants, partridges, and quail.
3. Otididae commonly known as bustards.
4. Tinamidae, commonly known as tinamous.

(b) Application for the free entry of other live animals or birds under item 100.05, Tariff Schedules of the United States shall be referred to the United States Customs Service for consideration. Animals imported for fur-farming purposes shall not be admitted free of duty under that paragraph.

■ (c) Reserved **[TD 82-145.]**

(d) Game animals and birds killed in foreign countries by residents of the United States, if not imported for sale or other commercial purposes, may be admitted free of duty without entry, if the person has no merchandise requiring a written declaration upon the filing of a declaration on Customs Form 3315. No bond or cash deposit to insure the destruction or exportation of the plumage of such birds shall be required. **[TD 52351.]**

§ 10.77 Skins bearing wool or hair as fur skins.

(a) The following types of skins bearing wool or hair of a kind described in schedule 3, part 1C, Tariff Schedules of the United States, may be classified as fur skins under item 123.00 of those schedules,[71] without special supporting evidence: **[TDs 51637, 52223, 55978.]**

Lambskin

Astrakhan, Bagdad, Bessarabian, Bombay, Broadtail, Caracul, Chekiang, Persian, Salzfells, Shiraz.
Chinese, Indian, Karakul, Krimmer, Moire, Mosul, Multan, Southwest African, Tsining.

Other Skins

Guanaquito.

(b) If any skins, other than those named in paragraph (a) of this section, bearing wool or hair of a kind described in schedule 3, part 1C, Tariff Schedules of the United States, are claimed to be more specifically provided for as fur skins in item 123.00 of those schedules, the importer shall file in connection with the entry a declaration that the skins are to be used for no other purpose than as fur skins, and free entry shall be dependent upon a report of the appraiser that no substantial part of the wool or hair on the skins can economically be removed otherwise than as an unsought residue and used or disposed of in competition with pulled or clipped wool, and that they are suitable for use, without removing the wool or hair from the skins, in the manufacture or trimming of clothing, driving gloves, or other articles in which the imported skins will be used as furs. **[TDs 52223, 53268, 55978.]**

Products of American Fisheries

§ 10.78 Entry.

(a) Except as prescribed in § 10.79(d), no entry shall be required for fish or other marine products taken on the high seas by vessels of the United States or by residents of the United States in undocumented vessels owned in the United States when such fish or other products are brought into port by the taking vessel, or are transferred at sea to another fishing vessel of the same fleet and brought into port. **[TDs 49682, 49966, 55384.]**

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[69] "Articles imported for use in any scientific public collection for exhibition for scientific or educational purposes. * * * Wild animals (including birds and fish) * * * " (Item 852.20, Tariff Schedules of the United States.)

[70] "Animals, game, imported to be liberated in the United States for stocking purposes * * * " (Item 100.05, Tariff Schedules of the United States.)

[71] "Skins bearing wool or hair of a kind described in subpart C of part 1 of schedule 3, raw or not dressed, if suitable for use as furs without the removal of the wool or hair from the skins (except removal resulting in an unsought residue of wool or hair incidental to processing of the skins for use as furs) and imported to be so used * * *." (Item 123.00, Tariff Schedules of the United States.)

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on the person or in the accompanied or unaccompanied baggage of the donor or donee. (Sec. 7, 52 Stat. 1081, as amended, sec. 498, 46 Stat. 728, as amended; 19 U.S.C. 1321, 1498) **[TDs 73-175, 75-185, 78-394]**

§ 10.153 Conditions for exemption.

Customs officers shall be further guided as follows in determining whether an article or parcel shall be exempted from duty and tax under § 10.151 or § 10.152: **[TD 73-175.]**

(a) A "bona fide gift" for purposes of § 10.152 is an article formerly owned by a donor (may be a commercial firm) who gave it outright in its entirety to a donee without compensation or promise of compensation. It does not include articles acquired by purchase, barter, promissory exchange, or similar transaction, nor does it include articles said to be "given" in conjunction with a purchase, barter, promissory exchange, or similar transaction, such as a so-called bonus article.

(b) A parcel addressed to a person in the United States from an individual in a foreign country which contains a gift should be clearly marked on the outside to indicate that it contains a gift. Such marking is not conclusive evidence of a gift nor is the absence of such marking conclusive evidence that an article is not a gift. Ordinarily an article not exceeding $25 in fair retail value in the country of shipment sent from a person in a foreign country to a person in the United States ($40, in the case of an article sent from a person in the Virgin Islands, Guam, and American Samoa) will be recognizable as a gift from the nature of the article and obvious facts surrounding the shipment. **[TD 75-185, 78-394]**

(c) A parcel addressed to a person in the United States from a business firm in a foreign country would ordinarily not contain a gift from a donor in the foreign country. When such a parcel in fact contains an article entitled to free entry under section 10.152, the parcel should be clearly marked to indicate that it contains such a gift and a statement to this effect should be enclosed in the parcel.

(d) Consolidated shipments addressed to one consignee shall be treated for purposes of §§ 10.151 and 10.152 as one importation. The foregoing shall not apply to shipments of bona fide gifts consolidated abroad for shipment to the United States when:

(1) The consolidation for shipment to the United States is in a cargo van or similar containerization which is consigned to a common carrier, freight forwarder, freight handler, or other public service agency for distribution of the gift packages;

(2) The separate gifts not exceeding $25 in fair retail value in the country of shipment ($40, in the case of articles sent from persons in the Virgin Islands, Guam, and American Samoa) included in the consolidated shipment are before shipment individually wrapped and addressed to the donee in the United States; **[TD 75-185, 78-394]**

(3) Each gift package is marked on the outside to indicate that it contains a gift not exceeding $25 in fair retail value in the country of shipment ($40, in the case of packages sent from persons in the Virgin Islands, Guam, and American Samoa); and **[TD 75-185, 78-394]**

(4) Each gift package is separately listed in the name of the addressee-donee on a packing list, manifest, bill of lading, or other shipping document.

(e) No alcoholic beverage, perfume containing alcohol (except where the aggregate fair retail value in the country of shipment of all merchandise contained in the shipment does not exceed $5), cigars, or cigarettes shall be exempted from the payment of duty and tax under § 10.151 or § 10.152. **[TD 78-394]**

(f) The exemptions provided for in § 10.151 or § 10.152 are not to be allowed in respect of any shipment containing one or more gifts having an aggregate fair retail value in the country of shipment in excess of $25 ($40, in the case of articles sent from persons in the Virgin Islands, Guam, and American Samoa), except as indicated in paragraph (d) of this section. For example, an article ordinarily subject to an ad valorem rate of duty but sent as a gift, if the fair retail value exceeds the $25 (or $40) exemption, would be subject to a duty based upon its value under the provisions of section 402 or 402(a), Tariff Act of 1930, as amended (19 U.S.C. 1401a or 1402), even though the dutiable value is less than the $25 (or $40) exemption. **[TD 78-394]**

(g) The exemption referred to in § 10.151 is not to be allowed in the case of any merchandise of a class or kind provided for in any absolute or tariff-rate quota, whether the quota is open or closed. In the case of merchandise of a class or kind provided for in a tariff-rate quota, the merchandise is subject to the rate of duty in effect on the date of entry. (R.S. 251, as amended, secs. 498, 624, 46 Stat. 728, as amended, 759, sec. 7, 52 Stat. 1081, as amended (19 U.S.C. 66, 1321, 1498, 1624))

Generalized System of Preferences

§ 10.171 General.

(a) *Statutory authority.* Title V of the Trade Act of 1974, as amended (19 U.S.C. 2461-2465) authorizes the President to establish a Generalized System of Preferences (GSP) to provide duty-free treatment for eligible articles imported directly from designated beneficiary developing countries. Beneficiary developing countries and articles eligible for duty-free treatment are designated by the President by Executive order in accordance with sections 502(a)(1) and 503(a) of the Trade Act of 1974, as amended (19 U.S.C. 2462(a)(1), 2463(a)). **[TD 76-2, 80-271.]**

(b) *Country defined.* For purposes of §§ 10.171 through 10.178, except as otherwise provided in § 10.176(a), the term "country" means any foreign country, any overseas dependent territory or possession of a foreign country, or the Trust Territory of the Pacific Islands. In the case of an association of countries which is a free trade area or customs union, or which is contributing to comprehensive regional economic integration among its members through appropriate means, including but not limited to, the reduction of duties the President may by Executive order provide that all members of such association other than members which are barred from designation under section 502(b) of the Trade Act of 1974 (19 U.S.C. 2462(b)) shall be treated as one country for purposes of §§ 10.171 through 10.178. (R.S. 251, as amended, sec. 624, 46 Stat. 759, sec. 503(b), 88 Stat. 2069 (19 U.S.C. 66, 1624, 2463(b))) **[TD 80-271.]**

§ 10.172 Claim for exemption from duty under the Generalized System of Preferences.

A claim for an exemption from duty on the ground that the Generalized System of Preferences applies shall be allowed by the appropriate district director only if he is satisfied that the requirements set forth in this section and sections 10.173 through 10.178 have been met. If duty-free treatment is claimed at the time of entry, a written claim shall be filed on the entry document by placing the symbol "A" as a prefix to the Tariff Schedules of the United States Annotated item number for each article for which such treatment is claimed. If duty-free treatment is claimed subsequent to the time of entry in accordance with § 10.112, the filing of the Certificate of Origin, or a duplicate thereof as described in § 10.173(a)(2), shall constitute the written claim. (R.S. 251, as amended, sec. 624, 46 Stat. 759, sec. 503(b), 88 Stat. 2069 (19 U.S.C. 66, 1624, 2463(b))) **[TDs 76-2, 77-36.]**

§ 10.173 Evidence of the country of origin.

(a) *Shipments valued in excess of $250*—(1) *Certificate of Origin*. Except as provided in paragraph (a)(5) of this section, the importer or consignee of a shipment of eligible merchandise valued in excess of $250 shall file with the district director in connection with the entry the Generalized System of Preferences Certificate of Origin Form A, as evidence of the country of origin. Form A shall be signed by the exporter of the merchandise in the country from which it is directly imported, certified by the designated governmental authority in that country, and properly completed. **[TDs 76-2, 77-36.]**

(2) *Duplicate Certificate of Origin*. In the event of the loss, theft, or destruction of a Certificate of Origin, the district director will accept in connection with the entry a duplicate Certificate of Origin issued by the appropriate governmental body in the country of origin and endorsed with the word "duplicate" in box 4. The duplicate shall bear the date of issue of the original Certificate of Origin and will be effective from that date. **[TD 77-36.]**

(3) *Release under bond*. If the required Certificate of Origin properly completed, or a duplicate thereof as described in subparagraph (2) of this paragraph, is not produced at the time of entry, the entry shall be accepted, subject to compliance with the requirements set forth in § 10.172 and §§ 10.174 through 10.178, only if the importer or consignee gives a bond on Customs Form 7551, 7553, or 7595 for the production of the Certificate of Origin. The bond shall be in the amount required under § 113.14 of this chapter. Within 60 days after such entry, or such additional period as the district director may allow for good cause shown, the importer or consignee shall deliver to the district director the Certificate of Origin. If the Certificate of Origin is not delivered to the district director within 60 days of the date of entry or such additional period as the district director, for good cause, may allow, the district director shall treat the entry as dutiable and may cancel the bond or the charge against the bond, as appropriate, in accordance with § 172.22(c) of this chapter. **[TD 77-27.]**

(4) *Verification of evidence*. Evidence of the country of origin required under this paragraph shall be subject to such verification as the district director deems necessary.

(5) *Waiver of Certificate of Origin*. The district director may waive production of a Certificate of Origin when he is otherwise satisfied that the merchandise qualifies for duty-free entry under the Generalized System of Preferences. **[TD 82-165.]**

(b) *Shipments valued at $250 or less*. Although the filing of a Certificate of Origin, is not required for shipments valued at $250 or less, the district director may require such other evidence of the country of origin as he deems necessary. (R.S. 251, as amended, sec. 624, 46 Stat. 759, sec. 503(b), 88 Stat. 2069 (19 U.S.C. 66, 1624, 2463(b)))

§ 10.174 Evidence of direct shipment.

(a) *Documents constituting evidence of direct shipment*. The district director may require that appropriate shipping papers, invoices, or other documents be submitted within 60 days of the date of entry as evidence that the articles were "imported directly", as that term is defined in section 10.175. Any evidence of direct shipment required by the district director shall be subject to such verification as he deems necessary. **[TD 76-2.]**

(b) *Waiver of evidence of direct shipment*. The district director may waive the submission of evidence of direct shipment when he is otherwise satisfied, taking into consideration the kind and value of the merchandise, that the merchandise clearly qualifies for treatment under the Generalized System of Preferences. (R.S. 251, as amended, sec. 624, 46 Stat. 759, sec. 503(b), 88 Stat. 2069 (19 U.S.C. 66, 1624, 2463(b)))

§ 10.175 Imported directly defined.

Eligible articles shall be imported directly from a beneficiary developing country to qualify for treatment under the Generalized System of Preferences. For purposes of §§ 10.171 through 10.178 the words "imported directly" mean: **[TD 76-2.]**

(a) Direct shipment from the beneficiary country to the United States without passing through the territory of any other country; or

(b) Except as provided in paragraph (c) of this section, if shipped from a beneficiary developing country to the United States through the territory of any other country, the merchandise shall not have entered into the commerce of any other country while en route to the United States, and the invoices, bills of landing, and other documents connected with the shipment shall show the United States as the final destination; or

(c) If shipped from the beneficiary developing country to the United States through a free trade zone in a beneficiary developing country, the merchandise shall not enter into the commerce of the country maintaining the free trade zone, and

(1) The eligible articles must not undergo operation other than:

(i) Sorting, grading, or testing,

(ii) Packing, unpacking, changes of packing, decanting or repacking into other containers,

PART 12—SPECIAL CLASSES OF MERCHANDISE

Food, Drugs, and Cosmetics, Economic Poisons, Hazardous Substances, and Dangerous Caustic or Corrosive Substances

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Authority: R.S. 251, sec. 624, 46 Stat. 759, sec. 101, 76 Stat. 72; 5 U.S.C. 301, 19 U.S.C. 66, 1624, Gen. Hdnote. 11, Tariff Schedules of the United States, unless otherwise noted. Sections 12.105 through 12.109 also issued under sec. 204, 86 Stat. 1297 (19 U.S.C. 2094). Sections 12.110 through 12.117 also issued under sec. 17(e), Federal Insecticide, Fungicide and Rodenticide Act, as amended by the Federal Environmental Pesticide Control Act of 1972; Pub. L. 92-516 (7 U.S.C. 1360(e)).

Source: 28 FR 14710, Dec. 31, 1963, unless otherwise noted. Sections 12.105 through 12.109 appear at 38 FR 10807, May 2, 1973, unless otherwise noted.

Cross Reference: For joint regulations promulgated by the Secretary of the Treasury and the Secretary of Agriculture, with respect to importations of economic poisons and devices under the regulations for the enforcement of section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act, see 40 CFR Part 162.

Food, Drugs, and Cosmetics, Economic Poisons, Hazardous Substances, and Dangerous Caustic or Corrosive Substances

§ 12.1 Cooperation with certain agencies; joint regulations.

(a) *Federal Food, Drug, and Cosmetic Act.* The importation into the United States of food, drugs, devices, and cosmetics as defined in section 201 (f), (g), (h), and (i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 (f), (g), (h), (i)) is governed by section 801 of the Act, as amended (21 U.S.C. 381) and regulations issued under authority of section 701(b) of the Act (21 U.S.C. 371(b)) by ■ the Secretary of Health and Human Services and the Secretary of the Treasury (21 CFR 1.315–1.322). **[21 USC 371(b). TDs 51775, 51836, 52492, 53399, 68–191, 82–145.]**

(b) *Federal Insecticide, Fungicide, and Rodenticide Act.* The importation of pesticides and devices is governed by section 17(c) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. 136*o*(c)), and regulations issued under the authority of section 17(e) of that Act (7 U.S.C. 1360(e)) by the Secretary of the Treasury, in consultation with the Administrator of the Environmental Protection Agency, as set forth below (§ 12.110 *et seq.*). **[TDs 68–191, 75–194.]**

■ (c) *Federal Hazardous Substances Act.* The importation of hazardous substances, misbranded hazardous substances, or banned hazardous substances as defined in section 2 of the Federal Hazardous Substances Act, as amended (15 U.S.C. 1261), is governed by regulations issued under the authority of sections 10(b) and 14 of the Act, as amended (15 U.S.C. 1269, 1273), by the Consumer Product Safety Commission (16 CFR 1500.265–272). **[15 USC 409(C). TD 68–191, 82–14.]**

§ 12.3 Release under bond.

No food, drug, device, cosmetic, pesticide, hazardous substance, or dangerous caustic or corrosive substance, the subject of § 12.1 shall be released except in accordance with the laws and regulations applicable thereto. Where any such merchandise is to be released under bond pursuant to regulations applicable thereto, a bond on Customs Form 7551, 7553, or 7595, containing a condition for the return of the merchandise, or any part thereof, to Customs custody upon demand of the district director of Customs, shall be required. **[7 USC 135h, 15 USC 405(a), 21 USC 381(b). TDs 50069, 51836, 50320, 52492, 53399, 68-191, 75-194.]**

§ 12.4 Exportation.

The exportation of merchandise, the subject of § 12.1, refused admission into the United States in accordance with regulations applicable thereto shall be under Customs supervision in accordance with the regulations set forth in §§ 18.25 and 18.26 of this chapter. **[7 USC 134, 15 USC 405(b), 21 USC 381(b). TDs 50505, 51836, 52492, 68-191.]**

§ 12.5 Shipment to other ports.

When imported merchandise, the subject of § 12.1, is shipped to another port for reconditioning or exportation, such shipment shall be under a Customs carrier's manifest, Customs Form 7512, in the same manner as shipments in bond. **[TDs 51836, 52492, 68-191.]**

Importation of Certain Cheeses

§ 12.6 Affidavits required to accompany entry.

(a) Cheeses produced in the member states of the European Communities shall not be permitted entry into the Customs territory of the United States (excluding Puerto Rico) if exported from any country or area other than the country of origin, or into Puerto Rico, unless accompanied by: **[TD 75-210.]**

(1) An affidavit, in the event of shipments into the Customs territory of the United States (excluding Puerto Rico), of the producer or exporter that the cheese has not received and will not receive restitution payments of the type referred to in Executive Order No. 11851, dated April 10, 1975 (40 FR 16645); or

(2) An affidavit, in the event of shipments into Puerto Rico, of the importer that the cheese will be consumed in

Puerto Rico or areas outside the Customs territory of the United States. Proof of actual consumption shall be furnished to the appropriate Customs officer within three years after the date such cheese is entered or withdrawn from warehouse, for consumption.

(b) These affidavits shall not be required to accompany importations of cheese produced in the member states of the European Communities if such cheese is shipped directly to the United States (excluding Puerto Rico) from the country of origin on a through bill of lading. (Sec. 303, 46 Stat. 687, sec. 204, 70 Stat. 200, as amended (7 U.S.C. 1854, 19 U.S.C. 1303))

Milk and Cream

§ 12.7 Permits required for importation.

(a) Under the act of February 15, 1927 (44 Stat. 1101, as amended, 21 U.S.C. 141–149), commonly known as the Federal Import Milk Act, the importation into the United States of milk and cream is prohibited unless the person by whom such milk or cream is shipped or transported into the United States holds a valid permit from the Department of Health and Human Services. Such permits become invalid at the end of one year unless applications for renewal are filed prior to the date of expiration. **[TD 53399, 82–145.]**

(b) The regulations of the Department of Health and Human Services under the said act[6] require that each container of milk or cream shipped or transported into the United States by a permittee shall have firmly attached thereto a tag showing in clear and legible type the product (raw milk, pasteurized milk, raw cream, or pasteurized cream) the permit number and the name and address of the shipper; except that in case of unit shipments consisting of milk only or cream only under one permit number, each container need not be so marked if the vehicle of transportation is sealed and tagged with the above-mentioned tag. In such case the tag is required to show, in addition to the other required information, the number of containers and the contents of each. Customs officers shall not permit the importation of any milk or cream that is not tagged in accordance with such regulations. **[TD 52492, 82–145.]**

Meats and Mea[illegible]ood Products

§ 12.8 Inspection; bond; [illegible]e.

(a) All imported meat, meat-food products[7] horse meat and horse meat-food products offered for entry into the United States are subject to the regulations prescribed by the Secretary of Agriculture under section 306, Tariff Act of 1930.[8] Such meat, meat-food products, horse meat and horse meat-food products shall not be released from Customs custody prior to inspection by an inspector of the Food Safety and Inspection Service, Meat and Poultry inspection, except when authority is given by such inspector for inspection at the importer's premises or other place not under Customs supervision. In such case a bond for the return to Customs custody of the merchandise shall be given by the consignee or agent on Customs Form 7551, 7553, or other appropriate form, and the conveyances or packages in which such merchandise is removed to the place of examination shall be sealed or corded and sealed by a customs officer or an inspector of the Food Safety and Inspection Service, Meat and Poultry Inspection, with import-meat seals furnished by the Department of Agriculture unless bearing United States Customs seals, or in the case of packages otherwise identified as provided for in this section. When cording is necessary for proper sealing, the cords shall be furnished and affixed by the importer or his agent. Import-meat seals or cords and seals may be broken only by a Customs officer or inspector of the Meat Inspection Division, Agricultural Research Service. **[TDs 38969, 48781, 51255, 51851, 52433, 52492, 53946, 55247, 78–99, 82–145.]**

In lieu of cording and sealing packages, the carrier or importer may furnish and attach to each package of product a warning notice on bright yellow paper, not less than 5 by 8 inches in size, containing the following legend in black type of a conspicuous size:

(Name of Truck Line or Carrier)

Notice

This package of meat or meat product must be delivered intact to an inspector of the Meat Inspection Division, U.S. Department of Agriculture.

Warning

Failure to comply with these instructions will result in penalty action being taken against the holder of the Customs entry bond.

If the product is found to be acceptable upon inspection the package will be marked "U.S. Inspected and Passed" and this warning notice defaced.

(b) Liquidated damages assessed for breach of bonds taken under this section, if not in excess of $20,000, and if a written application for relief is filed, may be canceled by the district director upon the payment of less than the full amount as he shall deem appropriate, or without the payment of any amount, as may be deemed appropriate, but the district director shall not act under this paragraph unless the officer in charge of the local office of the Food Safety and Inspection Service, Meat and Poultry Inspection, Department of Agriculture, is in full agreement with the pro-

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[6] See Appendix XXI, Customs Regulations.

[7] The term "meat and meat-food products," for the purpose of this section, shall include any imported article of food or any imported article which enters or may enter into the composition of food for human consumption, which is derived or prepared in whole or in part from any portion of the carcass of any cattle, sheep, swine, or goat, if such portion is all or a considerable and definite portion of the article, except such articles as organotherapeutic substances, meat juice, meat extract, and the like, which are only for medicinal purposes and are advertised only to the medical profession.

[8] (a) If the Secretary of Agriculture determines that rinderpest or foot-and-mouth disease exists in any foreign country, he shall officially notify the Secretary of the Treasury and give public notice thereof, and thereafter, and until the Secretary of Agriculture gives notice in a similar manner that such disease no longer exists in such foreign country, the importation into the United States of cattle, sheep, or other ruminants, or swine, or of fresh, chilled, or frozen meat of such animals, from such foreign country, is prohibited: *Provided*, That wild ruminants or swine may be imported from any such country upon such conditions, including post entry conditions, to be prescribed in import permits or in regulations, as the Secretary may impose for the purpose of preventing the dissemination of said diseases into or within the United States: *And provided further*, That the subsequent distribution, maintenance, and exhibition of such animals in the United States shall be limited to zoological parks approved by said Secretary as meeting such standards as he may by regulation prescribe for the purpose of preventing the dissemination of said diseases into or within the United States. The Secretary may at any time seize and dispose of any such animals which are not handled in accordance with the conditions imposed by him or which are distributed to or maintained or exhibited at any place in the United States which is not then an approved zoological park, in such manner as he deems necessary for said purpose.

(b) Reserved.

"(c) *Regulations*. The Secretary of Agriculture is authorized to make rules and regulations to carry out the purposes of this section, and in such rules and regulations the Secretary of Agriculture may prescribe the terms and conditions for the destruction of all cattle, sheep, and other domestic ruminants, and swine, and of all meats, offered for entry and refused admission into the United States, unless such cattle, sheep, domestic ruminants, swine, or meats be exported by the consignee within the time fixed therefor in such rules and regulations." (Tariff Act of 1930, sec. 306; 19 U.S.C. 1306)

See regulations in Appendices XII and XIII, Customs Regulations.

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posed action. If there is no local inspector of the Food Safety and Inspection Service, Meat and Poultry Inspection, the district director shall not act unless he has obtained the full agreement of the Food Safety and Inspection Service, Meat and Poultry Inspection in Washington. **[TDs 53946, 55247, 78-99]**

§ 12.9 Release for final delivery to consignee.

No meat, meat-food products, or animal casings shall be released for final delivery to the consignee until the district director is advised by the Department of Agriculture, or its representative, that the merchandise is admissible. **[TDs 33952, 42447.]**

Plants and Plant Products

§ 12.10 Regulations and orders of the Department of Agriculture.

The importation into the United States of plants and plant products is subject to regulations and orders of the Department of Agriculture restricting or prohibiting the importation of such plants and plant products. Customs officers and employees shall perform such functions as are necessary or proper on their part to carry out such regulations and orders of the Department of Agriculture and the provisions of law under which they are made. (Secs. 1-9, 11, 37 Stat. 315, as amended, 316, 317, 318, as amended, 319, 37 Stat. 854; 7 U.S.C. 151-162) **[TD 52492]**

§ 12.11 Requirements for entry and release.

(a) The importer or his representative shall submit to the district director at the port of first arrival, for each entry of plants or plant products requiring a plant quarantine permit, a notice of arrival for any type of entry except rewarehouse and informal mail entries. Such notice shall be on a form provided for the purpose by the Department of Agriculture. The district director at the port of arrival shall compare the notice of arrival which he receives from the importer or his representative with the shipping documents, certify its agreement therewith, and transmit it, together with any accompanying certificates or other documents pertaining to the sanitary status of the shipment, to the Department of Agriculture. The merchandise may not be moved, stored, or otherwise disposed of until the notice of arrival has been submitted and release for the intended purpose has authorized by an inspector of the Animal and Plant Health Inspection Service, Plant Protection and Quarantine Programs. **[TD 52492, 55039, 78-99]**

(b) Where plant or plant products are shipped from the port of first arrival to another port or place for inspection or other treatment by a representative of the Animal and Plant Health Inspection Service, Plant Protection and Quarantine Programs and all Customs requirements for the release of the merchandise have been met, the merchandise shall be forwarded under a special manifest (Customs Form 7512) and in-bond labels or Customs seals to the representative of the Animal and Plant Health Inspection Service, Plant Protection and Quarantine Programs at the place at which the inspection or other treatment is to take place. No further release by the district director shall be required. **[TDs 52610, 54056, 55039, 78-99]**

§ 12.12 Release under bond.

Plants or plant products which require fumigation, disinfection, sterilization, or other treatment as a condition of entry may be released to the permittee for treatment at a plant approved by the Department of Agriculture upon the giving of a bond on Customs Form 7551, 7553, or other appropriate form to insure that the merchandise is treated under the supervision and to the satisfaction of an inspector of the Department of Agriculture or returned to Customs custody when demanded by the district director. **[TD 52492.]**

§ 12.13 Unclaimed shipments.

(a) If plants or plant products enterable into the United States under the rules and regulations promulgated by the Secretary of Agriculture are unclaimed, they may be sold subject to the provisions of subparts C and D of Part 127 of this chapter to any person to whom a permit has been issued who can comply with the requirements of the regulations governing the material involved. **[TDs 52492, 74-114.]**

(b) Unclaimed plants and plant products not complying with the requirements mentioned in this section shall be destroyed, by burning or otherwise, under Customs supervision.

§ 12.14 Detention.

(a) District directors shall refuse release of all plants or plant products with respect to which a notice of prohibition has been promulgated by the Secretary of Agriculture under any of the various quarantines. If an importer refuses to export a prohibited shipment immediately, the district director shall report the facts to the U.S. Department of Agriculture, Animal and Plant Health Inspection Service, Plant Protection and Quarantine Programs and the United States attorney and withhold delivery pending advice from that Department. **[TDs 52492, 55039, 78-99]**

(b) In case of doubt as to whether any plant or plant product is prohibited, the district director shall detain it pending advice from the Department of Agriculture.

§ 12.15 Disposition; refund of duty.

Plants or plant products which are prohibited admission into the United States under Federal law or regulations and are exported or destroyed under proper supervision are exempt from duty and any duties collected thereon shall be refunded. (See §§ 158.41 and 158.45(c) of this chapter.) (Sec. 558, 46 Stat. 744, as amended; 19 U.S.C. 1558) **[TD 72-258.]**

Agricultural and Vegetable Seeds

§ 12.16 Joint regulations of the Secretary of the Treasury and the Secretary of Agriculture.

(a) The importation into the United States of agricultural and vegetable seeds and screenings thereof is governed by rules and regulations prescribed jointly by the Secretary of the Treasury and the Secretary of Agriculture under section 402(b) of the Federal Seed Act of August 9, 1939 (7 CFR 201).[9] **[TD 82-145.]**

(b) Under the said joint rules and regulations, district directors are required to draw samples of such seeds and screenings, forward them to the seed laboratories, and notify the owner or consignee that such samples have been drawn and that the shipment shall be held intact pending a decision of the Livestock, Meat, Grain and Seed Division, Agricultural Marketing Service, in the matter. **[BCLs 1835/38; 2070/40; 2133/40; 2136/40; 2206/41, 82–145.]**

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[9] See Appendix XIV, Customs Regulations.

(c) It is further provided in said joint rules and regulations that after samples have been drawn such seeds and screenings shall be admitted into the commerce of the United States only if they have been found to meet the requirements of the Federal Seed Act of August 9, 1939, and the said regulations, but if the containers bear sufficient marks of identification the district director may release the shipment, pending examination and decision in the matter, upon the giving of a bond conditioned upon the return to Customs custody of the seed or screenings or any part thereof upon demand of the district director at any time. Such bond shall be on Customs Form 7551, 7553, or other appropriate form, and shall be filed with the district director who, in case of default, shall take appropriate action to effect the collection of the liquidated damages equal to the invoice value of the entire shipment plus the estimated duty thereof, if any. (Sec. 402(b), 53 Stat. 1285; 7 U.S.C. 1592(b)) **[BCL 5/29/40. TDs 47281, 50000.]**

Viruses, Serums, and Toxins for Treatment of Domestic Animals

§ 12.17 Importation restricted.

The importation into the United States of viruses, serums, toxins, and analogous products for use in the treatment of domestic animals is prohibited[10] unless the importer holds a permit from the Department of Agriculture covering the specific product. The district director shall notify the Animal and Plant Health Inspection Service, Veterinary Services, Washington, D.C., of the arrival of any such product, and detain it until he shall receive notice from that Department that a permit to import the shipment has been issued. **[BCL 2276/41. TDs 33575 49476(5), 49905, 52492, 78–99]**

§ 12.18 Labels.

Each separate container of such virus, serum, toxin, or analogous product imported is required by the regulations of the Department of Agriculture to bear the true name of the product and the permit number assigned by the Department of Agriculture in the following form: "U.S. Veterinary Permit No. ———," or an abbreviation thereof authorized by the Animal and Plant Health Inspection Service, Veterinary Services. Each separate container also shall bear a serial number affixed by the manufacturer for identification of the product with the records of preparation thereof, together with a return date. **[TD 53399, 78–99]**

§ 12.19 Detention; samples.

(a) The district director shall detain all shipments of such products for which no permit to import has been issued pending instructions from the Department of Agriculture. **[TD 33575.]**

(b) Samples shall be furnished to the Department of Agriculture upon its request, and the district director shall immediately notify the consignee of any such request.

§ 12.20 Disposition.

Viruses, serums, or toxins rejected by the Department of Agriculture shall be released by the district director to that Department for destruction, or exported under Customs supervision at the expense of the importer if exportation is authorized by the Department of Agriculture.

Viruses, Serums, Toxins, Antitoxins, and Analogous Products for the Treatment of Man

§ 12.21 Licensed establishments.

The bringing into the United States for sale, barter, or exchange, of any virus, therapeutic serum, toxin, antitoxin, or analogous product, or arsphenamine or its derivatives (or any other trivalent organic arsenic compound), applicable to the prevention, treatment, or cure of diseases or injuries of man is prohibited unless such virus, serum, toxin, antitoxin, or other product has been manufactured at an establishment holding an unsuspended and unrevoked license issued by the Secretary of Health and Human Services for such manufacture. (Sec. 351, 58 Stat. 702, as amended; 42 U.S.C. 262) **[TDs 29828, 48293, 52492, 69–201, 82–145.]**

§ 12.22 Labels; samples.

Each package of such products imported for sale, barter, or exchange shall be labeled or plainly marked with the name, address, and license number of the manufacturer, and the date beyond which the contents cannot be expected to yield their specific results. From each lot of product the district director shall select at random at least two final containers. The random sample together with a copy of the associated documents which describe and identify the shipment shall be forwarded to the Director, Bureau of Biologics, Food and Drug Administration, 8800 Rockville Pike, Bethesda, Md. 20014. For shipments of 20 or less final containers, samples need not be forwarded, provided a copy of an official release from the Bureau of Biologics accompanies each shipment. (Sec. 351, 58 Stat. 702, as amended; 42 U.S.C. 262) **[TDs 29828, 48293, 69–201, 82–145.]**

§ 12.23 Detention; examination; disposition.

(a) District directors shall detain all importations of unlicensed viruses, therapeutic serums, toxins, antitoxins, and analogous products, and arsphenamines or its derivatives (or any other trivalent organic arsenic compound) for the treatment or cure of diseases or injuries of man pending examination by the Director, Bureau of Biologics, unless satisfied from evidence furnished at the time of entry that the products are intended solely for purposes of controlled investigation and not for sale, barter, or exchange, as evidenced by a copy of a filed "Notice of Claimed Investigational Exemption for a New Drug," pursuant to § 312.1 of the Food, Drug, and Cosmetic Act Regulations (21 CFR 312.1), or are being imported under the short supply provisions of § 601.22 of the Public Health Service Regulations (4 CFR 601.22). **[29 Op. A. G. 340. TDs 48293, 69–201, 82–145.]**

(b) If the shipment is imported for sale, barter, or exchange and is found by the Director, Bureau of Biologics, to be admissible, the district director shall release it upon receipt of a report from him that the shipment is admissible. **[TD 69–201, 82–145.]**

(c) If the Director, Bureau of Biologics, reports that the shipment was found upon examination not to conform to the law and the regulations, the district director shall not release the shipment but shall permit the exportation or destruction thereof under Customs supervision at the option of the importer. **[TDs 52492, 69-201, 82-145.]**

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[10] See Appendix XVII, Customs Regulations. (37 Stat. 832, 833; 21 U.S.C. 151–158)

(d) Shipments of such products for use in the treatment of man but made from or with material of animal origin other than human, shall, unless accompanied by a Department of Agriculture, Veterinary Services, Animal and Plant Health Inspection Service (APHIS), permit, be detained until proof is presented to the district director that their importation is not prohibited under 9 CFR Part 94 or Part 122. (Sec. 351, 58 Stat. 702, as amended; 42 U.S.C. 262) **[TD 69-201, 82-145.]**

Domestic Animals, Animal Products, and Animal Feeding Materials

§ 12.24 Regulations of the Department of Agriculture.

(a) The importation into the United States of domestic animals, animal products, and animal feeding materials is subject to inspection and quarantine regulations of the Department of Agriculture.[11] Customs officers and employees are authorized and directed to perform such functions as are necessary or proper on their part to carry out such regulations of the Department of Agriculture. **[TDs 45782, 50057, 50292, 50311, 50332, 50346, 50407, 50741, 51182, 51499, 51592, 51611, 51745, 51882, 52082, 52231, 52492, 52630, 52678, 78-99]**

(b) Inspection by an inspector of the Animal and Plant Health Inspection Service, Veterinary Services is required for all horses, cattle, sheep, other ruminants, and swine as a prerequisite to their entry from any foreign country. Orders listing the ports designated as quarantine stations for the inspection and quarantine of animals will be issued by the Secretary of Agriculture, with the approval of the Secretary of the Treasury, whenever conditions warrant.

(c) The entry of domestic animals may be made, but shall not be required, before the expiration of the quarantine period. Such animals, if not entered at the time of arrival, shall be considered as under general order while under quarantine and shall not be released except upon notice from the district director that the importer has complied with all the requirements for entry.

Fish, Wildlife and Insects

§ 12.26 Importations of wild animals, fish, amphibians, reptiles, mollusks, and crustaceans; prohibited and endangered species; designated ports of entry; permits required.

(a)(1) The importation into United States, the Commonwealth of Puerto Rico, and the territories and possessions of the United States of live specimens of (i) any species of the so-called "flying fox" or fruit bat of the genus Pteropus; (ii) any species of mongoose or meerkat of the genera Atilax, Cynictis, Helogale, Herpestes, Ichneumia, Mungos, and Suricata; (iii) any species of European rabbit of the genus Oryctolagus; (iv) any species of Indian wild dog, red dog, or dhole of the genus Cuon; (v) any species of multimammate rat or mouse of the genus Mastomys; (vi) any live specimens or egg of the species of so-called "pink starling" or "rosy pastor" Sturnus roseus; (vii) the species of dioch (including the subspecies black-fronted, red-billed, or Sudan dioch) Quelea quelea; (viii) any species of Java sparrow, Padda oryzivora; (ix) the species of red-whiskered bulbul, Pycnonotus jocosus; (x) any live fish or viable eggs of the family *Clariidae;* (xi) any other species of wild mammals, wild birds, fish (including mollusks and crustacea), amphibians, reptiles, or the offspring or eggs of any of the foregoing which the Secretary of the Interior may prescribe by regulations to be injurious to human beings, to the interest of agriculture, horticulture, forestry, or to wildlife or the wildlife resources of the United States, is prohibited, except as may be authorized by the issuance of a permit by the Director, Fish and Wildlife Service, U.S. Department of Interior, Washington, D.C. 20240, or his authorized representative. If any such prohibited specimen is imported, or if any specie or subspecie of other live or dead fish or wildlife, including any parts, products, or eggs thereof, appearing on the Endangered Species List published by the Fish and Wildlife Service, is imported, Customs release of the prohibited specimen or endangered fish or wildlife shall be refused unless there has been issued and presented in connection with entry a proper Fish and Wildlife Service permit authorizing the import transaction. In the absence of such permit, injurious specimens prohibited entry shall be required to be immediately exported or destroyed. Changes in injurious species and endangered species or subspecies which are prohibited or restricted importation may be published from time to time in 50 CFR Part 13—Importation of Wildlife or Eggs Thereof or in Part 17—Conservation of Endangered Species and Other Fish or Wildlife. Unreleased species or subspecies of live or dead endangered fish or wildlife, including parts, products, or eggs thereof, shall remain under detention subject to seizure and delivery to an appropriate regional director or other agent of the Fish and Wildlife Service for disposition as appropriate pursuant to 50 CFR Part 17. **[TDs 46255, 48173, 52469, 53102, 53866, 66-68, 68-173, 70-15, 70-242, 82-145.]**

(2) Fish and eggs of salmonids of the fish family Salmonidae are prohibited entry into the United States for any purpose unless such importations are by direct shipment, accompanied by the signed certification of a qualified fish pathologist in substantially the form as prescribed in 50 CFR 13.7. The following are excepted from the certification requirements: **[TDs 66-68, 68-173, 72-129.]**

(i) Salmon landed in North America and brought into the United States for processing or sale;

(ii) Any salmonid caught in the wild in North America under a sport or a commercial fishing license; and

(iii) Fish or eggs of the family Salmonidae when processed or prepared in accordance with 50 CFR 13.7(c), or otherwise exempted from the requirement of certification.

(3) Regulations (50 CFR Part 17) require the importer or his agent to file a Declaration for the Importation of Fish or Wildlife, unless it is an import transaction exempted from the requirement by 50 CFR Part 13 or Part 17. Such declaration on Fish and Wildlife Service Form 3-177, available to importers through Customs ports of entry, shall be filed with the appropriate Customs officer at the port of entry conducting the actual Customs clearance and release of the declared fish, wild mammal, or bird, amphibian, reptile, mollusk, crustacean, or dead body or egg thereof. The declaration on Form 3-177 shall show the common and scientific

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[11] See Appendix XII, Customs Regulations, and BAI orders published from time to time in the weekly Treasury Decisions.

names, number, and country of origin of all species or subspecies declared, designate and identify any species listed on the U.S. List of Endangered Foreign Fish and Wildlife, 50 CFR Part 17, Appendix A, and indicate whether any species is subject to laws and regulations in any foreign country regarding its taking, transportation, or sale. See paragraph (g) of this section for special documentation requirements. **[TDs 66–68, 68–173, 70–242, 72–129, 82–145.]**

(4) Federal agencies, subject to requirements in subparagraph (2) of this paragraph, may import solely for their own use live wildlife except migratory birds, or their eggs, without a permit from the Fish and Wildlife Service, upon filing the declaration on Form 3–177. Importation of bald or golden eagles, or their eggs is prohibited. **[TD 68–173, 82–145.]**

(5) Customs entry for consumption or bonded warehousing of fish and wildlife, as defined in 50 CFR 17.2 (e) and (f), intended for importation into the United States, or admission into a foreign trade zone, shall be filed at a port of entry among those designated for Customs entry in 50 CFR Part 17, Appendix B. However, Customs entry for consumption or bonded warehousing of shipments subject to emergency diversion or otherwise authorized under regulations or by permit issued by the Fish and Wildlife Service pursuant to 50 CFR Part 17, Appendices B and C, may be filed for examination and release at the ports of entry so named or permitted, but no consumption or bonded warehouse entry shall be filed or accepted at an undesignated port for any endangered specie or subspecie permitted importation pursuant to 50 CFR 17.12 except in the case of an emergency diversion of live endangered fish or wildlife accepted for such entry in accordance with item 2(b) of 50 CFR Part 17, Appendix B. Importations of fish and wildlife subject to regulations of the Fish and Wildlife Service which arrive from abroad at any place in the United States not designated as an authorized port for Customs entry, unless occurring under conditions or circumstances in which Customs entry for consumption or bonded warehousing and final clearance has been authorized by Fish and Wildlife Service regulations or permit, may be entered only for immediate transportation without appraisement for movement under Customs bond to one of the designated ports of entry. Customs entry, release, and delivery of any shipment of shellfish and fishery products defined in 50 CFR 17.2(j) imported for commercial purposes is authorized at any port of entry, except insofar as such items include any species or subspecies which appears on the Endangered Species List in 50 CFR Part 17, Appendix A. **[TD 70–242, 82–145.]**

(b) Permits are required for the importation of wild animals and birds as follows: **[TD 66–68.]**

(1) Wild birds protected by the Migratory Bird Treaty Act (16 U.S.C. 703-711) and the regulations promulgated thereunder (50 CFR Part 10), may be imported from foreign countries for scientific, propagating, or other limited purposes only under permits issued by the Fish and Wildlife Service, United States Department of the Interior, Washington, D.C., 20240. State game departments, municipal game farms or parks, and public museums, zoological parks or societies, and scientific or educational institutions may import migratory birds without a permit. Such migratory birds, when imported from Mexico, must be accompanied by Mexican export permits (50 CFR 16.3 and 16.5). **[TDs 53102, 66–68, 82–145.]**

(2) Game mammals (antelopes, mountain sheep, deer, bears, peccaries, squirrels, rabbits, and hares), protected by the Migratory Bird Treaty Act (16 U.S.C. 703-711), dead or alive, or their parts or products, must be accompanied by Mexican export permits (50 CFR 15.3) when imported from Mexico. **[TD 66–68.]**

(3) Wild ruminants (all animals which chew the cud, such as cattle, buffaloes, sheep, goats, deer, antelopes, camels, llamas, and giraffes) and swine (various varieties of wild hogs), except from Canada and certain northern States of Mexico may be imported only under a permit from the Animal and Plant Health Inspection Service, Veterinary Services, United States Department of Agriculture, Washington, D.C. 20250. Such permits must be obtained before the animals are shipped from the country of exportation.[13] All wild ruminants and swine must be inspected at designated ports of entry by veterinarians of the Animal and Plant Health Inspection Service, Veterinary Services, United States Department of Agriculture. **[TDs 53102, 53866, 78-99]**

(4) Psittacine birds, which include all birds commonly known as parrots, Amazons, African grays, cockatoos, macaws, parrotlets, beebees, parakeets, lovebirds, lories, lorikeets, and all other birds of the order Psittaciformes, when destined for a zoological park or medical research institution without having had prior confinement and treatment abroad at an approved treatment center, and psittacine birds taken out of the United States but inadmissible under paragraph (c) of this section, may be imported when accompanied by a permit issued by the Surgeon General. Application for such a permit may be made to the Chief, Foreign Quarantine Program, National Communicable Disease Center, U.S. Public Health Service, Atlanta, Ga. 30333, or to a Public Health Service quarantine station established at a port of entry in the United States. **[TDs 53251, 53336, 53399, 68-165.]**

(5) Ducks, geese, swans, turkeys, pigeons, doves, pheasants, grouse, partridges, quail, guinea fowl, and pea fowl, except from Canada, may be imported only under a permit from the Animal and Plant Health Inspection Service, Veterinary Services, United States Department of Agriculture, Washington, D.C. 20250.[13a] Such permits must be obtained before the birds are shipped from the country of origin. Such birds from Canada must be accompanied by a certificate issued by a Canadian Government veterinarian. All such birds must be inspected at designated ports of entry by veterinarians of the Animal and Plant Health Inspection Service, Veterinary Services, United States Department of Agriculture. **[TDs 53102, 63866, 78-99]**

(c) Psittacine birds as defined in paragraph (b)(4) of this section, not to exceed two such birds by members of a family comprising a single household in any 12-month period, may be imported under prescribed conditions (see 42 CFR 71.164(e)) without permit and without prior confinement and treatment, to be kept as pets by the owner, who will be required to comply with the Foreign Quarantine Regulations of the U.S. Public Health Service. Birds taken out of the United States and being returned may be admitted, without permit, upon full compliance with prescribed conditions of those regulations for admission of birds imported as pets. No such birds shall be released until the importer has complied with applicable requirements of the Public Health regulations. **[TDs 53251, 53336, 68-165.]**

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[13] See Appendix XII, Customs Regulations, quoting 9 CFR Part 92.

[13a] See footnote on p. 205.

(d) Cats, dogs, and monkeys are subject to the Foreign Quarantine Regulations of the United States Public Health Service, Department of Health, Education, and Welfare, Washington, D.C.[13b] Such animals shall not be released until the Public Health regulations are complied with by the importer. **[TD 53336.]**

(e) If a shipment contains migratory birds for which a permit is required by the Fish and Wildlife Service of the Department of the Interior, and such permit is not at hand when the birds arrive, an examination thereof shall be made at once by the district director and any duties estimated to be due shall be collected. A stipulation shall be filed with the district director within 24 hours of the entry to produce the necessary permit within 30 days from the date of entry, whereupon final liquidation shall be suspended until the permit is produced or the 30-day period expires. Meanwhile, the property may be released to the importer, consignee, or agent for proper care upon the giving of a bond conditioned upon the return of the birds to Customs custody upon demand of the district director at any time. Such bond shall be on Customs Form 7551, 7553, or other appropriate form in an amount equal to the sum of the entered value plus any estimated duties and shall be filed with the district director who, in the case of default, shall take appropriate action to effect the collection of liquidated damages equal to the entered value of the merchandise not returned plus any estimated duty thereon; or if the importer, consignee, or agent shall so elect, the property may be retained in Customs custody at the expense of the importer pending the issuance of the permit. **[TD 82-145.]**

(f) If the permit referred to in paragraph (e) of this section is refused by the Fish and Wildlife Service, or if the permit is not produced within the said 30 days, the district director shall promptly recall the property, if delivered under bond, and shall require its immediate exportation at the expense of the importer or consignee.

(g)(1) All import shipments of fish and wildlife subject to the regulations or permit requirements of the Fish and Wildlife Service, published pursuant to the Endangered Species Act of 1973, 16 U.S.C. 1531, or other statutory authority, shall be subject to examination or inspection by that agency's officer serving the port of entry, for determination as to permissible release or such other disposition as he may direct. Customs officers performing examinations of such fish and wildlife in accordance with regulations of the Fish and Wildlife Service in 50 CFR Part 10 and Parts 13–17, shall release shipments only upon submission by the importer of evidence sufficient to establish compliance with those regulations, any applicable permit requirements, and compliance with applicable identification and package or container marking requirements as specified by 50 CFR 17.6(a) and 17.9. In case of doubt as to whether fish, birds, or other wildlife belong to prohibited or endangered species or subspecies or whether an entry permit is required, or in case of suspicion on the part of officers of the Customs that the species sought to be entered are prohibited or endangered species or subspecies imported under other names or descriptions, the importation shall be refused Customs release, and the importer shall be responsible for concluding arrangements acceptable to the regional director or other agent of the Fish and Wildlife Service for proper handling, custody, and care, at the importer's expense and risk, of the unreleased fish, birds, or other wildlife. No Customs disposition of the importation shall be concluded pending the determination by the Fish and Wildlife Service of the true nature of the species or subspecies. In case of refusal or neglect of the importer or consignee, or agent of either, to have the identity so established, final disposition of the importation shall be required as determined by the Fish and Wildlife Service. In addition to Fish and Wildlife Service Form 3–177, required to be filed as prescribed in 50 CFR 17.4 upon entry of importations of fish and wildlife, entrants shall present appropriate foreign export permits, other acceptable foreign documentary evidence of lawful taking, transportation, or sale, or appropriate American consular certificates upon importation of fish and wildlife species or subspecies subject to such documentation requirements of 50 CFR 17.4 (c) and (d). **[TD 70–242, 82–145.]**

(2) Any antique article imported under § 10.53(g) of this chapter shall be entered at one of the following ports:
Boston, Massachusetts
New York, New York
Baltimore, Maryland, Philadelphia, Pennsylvania
Miami, Florida, San Juan, Puerto Rico
New Orleans, Louisiana
Houston, Texas
Los Angeles, California
San Francisco, California
Anchorage, Alaska, Honolulu, Hawaii
O'Hare International Airport, Chicago, Illinois
[TD 82–148.]

(h) All invoices of animals and birds shall specify the species covered thereby and the number of each species. In the event of the return to the district director of any importation under the bond given under paragraph (e) of this section, if the number and species of birds does not correspond with the description stated in the invoice and if no satisfactory explanation of any discrepancy is

(i) The privilege of entry for immediate transportation granted by section 552, Tariff Act of 1930, shall not be allowed for importations of fish, birds, or other wildlife which are confirmed at the port of first arrival or discharge to be injurious prohibited species, or which require permits issued prior to importation, or which are subject to quarantine regulations or inspection at the ports of first arrival or discharge or other specified place of veterinary inspection. However, entry for immediate transportation properly is allowed for any importation of fish, birds, or other wildlife which at the place of first arrival or discharge is not confirmed to be an injurious prohibited specie and which, following compliance with any applicable quarantine regulations or required veterinary inspection, is being transported by means of an in-bond movement to a port of entry designated in 50 CFR Part 17, Appendix B, for Customs entry (see paragraphs (a) and (b) of this section). Ports of designated entry, inspection, quarantine, and related enforcement procedures covering certain animals and poultry and certain animal and poultry products imported into the United States are regulated by requirements and standards prescribed in regulations of the Secretary of Agriculture, Department of

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[13b] See Appendix XVIII, quoting 42 CFR 71.154, 71.155.

Agriculture (see 9 CFR Parts 92-96; 19 CFR 12.8 and 12.24). **[TD 70-242.]**

(j) Wild animals and birds shall be imported under humane and healthful conditions, due regard being given to the accommodations and facilities necessary for the species transported.

(k) When any Customs officer has good reason to believe that wild animals or birds have been imported under inhumane or unhealthful conditions in violation of 18 U.S.C. 42, an immediate investigation shall be made to ascertain whether they have in fact been transported under such conditions. The investigation shall determine the provisions made on the vessel or other conveyance for the accommodation of the animals or birds, the suitability of the boxes, cages, stalls, etc., the space, ventilation, and protection from the elements accorded the animals or birds, the facilities for cleaning, feeding, watering, bedding, and such other services as may be required for the species imported. The investigation shall also determine, the physical condition of such animals or birds and the ratio of dead, crippled, diseased, or starving animals or birds. If necessary, officers of the Animal and Plant Health Inspection Service, Veterinary Services, or Fish and Wildlife Service, or other officers or experts, may be called upon to assist customs officers in the matter. **[TD 78-99]**

(l) Unless the district director is satisfied that the provisions of 18 U.S.C. 42 have not been violated, he shall report the matter to the United States attorney for appropriate action. (Sec. 1, 62 Stat. 687, as amended; 18 U.S.C. 42)

§ 12.27 Importation or exportation of wild animals or birds, or the dead bodies thereof illegally captured or killed, etc.

Certain statutory provisions prohibit or restrict the importation or exportation of wild animals or birds, or the dead bodies thereof, or the eggs of such birds, killed, captured, taken, transported, etc., contrary to law.[14] Customs officers shall perform all duties required of them under such laws. **[CIE 3745/31. TDs 44467, 49140(13), 49948, 66-68.]**

§ 12.28 Importation of wild mammals and birds in violation of foreign law.

No imported wild mammal or bird, or part or product thereof, shall be released from customs custody, except as permitted under § 12.26(i) relating to an in-bond movement to a port designated for wildlife entry, if the district director of Customs has knowledge of a foreign law or regulation obliging enforcement of section 527(a), Tariff Act of 1930 (19 U.S.C. 1527(a)), unless the importation is an excepted transaction entitled to entry under the provisions of section 527(c) of the Tariff Act or, in connection with the entry, there is presented documentation in either manner specified in 50 CFR 17.4(c) (1) or (2) required for import transactions subject to foreign laws or regulations regarding taking, transportation, or sale of wildlife including wild mammals and birds or parts or products thereof (see § 12.26). (80 Stat. 379, 62 Stat. 687, as amended, R.S. 251, sec. 527, 46 Stat. 741; 18 U.S.C. 42, 19 U.S.C. 1527) **[CIEs 2764/31, 3746/31; 716/32,/31. TDs 44407, 44412, 44413, 44436, 44437, 44438, 44674, 45860, 46255, 48173, 48349, 48468, 48709, 49103, 49378, 49443, 49475, 49548, 50217, 50260, 50329, 50950, 52073, 52339, 52469, 53005, 53399, 53866, 70-242, 82-145.]**

§ 12.29 Plumage and eggs of wild birds.

(a) The provisions of schedule 1, part 15D, headnote 2, Tariff Schedules of the United States,[16] relating to the plumage of any bird, apply to all such plumage, whether imported separately or upon the bird itself, except (1) the feathers of birds specifically excepted by said headnote 2, (2) plumage imported for scientific or educational purposes, (3) fully-manufactured artificial flies used for fishing, (4) plumage on game birds killed in foreign countries by residents of the United States and not imported for sale or other commercial purposes, and (5) plumage on live wild birds. **[TDs 33781, 33799, 33995, 34518, 34748, 35307, 38565, 39051, 46255, 47127, 49948, 43066, 53251, 55978.]**

(b) The feathers or skins of certain birds may be imported for use in the manufacture of artificial flies used

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[14] “Whoever delivers, carries, transports, ships, by any means whatever, or knowingly receives for shipment, to or from any State, territory, the District of Columbia, the Commonwealth of Puerto Rico, any possession of the United States, or any foreign country, any wild mammal or bird of any kind, or the dead body or parts thereof, or the offspring or eggs therefrom, as the case may be, which was captured, killed, taken, purchased, sold, or otherwise possessed or transported in any manner contrary to any Act of Congress or regulation issued pursuant thereto or contrary to the laws or regulations of any State, territory, the District of Columbia, the Commonwealth of Puerto Rico, possession of the United States, or foreign country, or

“Whoever receives, acquires, or purchases, knowingly, any such wild mammal or bird of any kind or the dead body or parts thereof, or the offspring or eggs therefrom, which was so transported, delivered, carried or shipped by any means whatsoever, as aforesaid; or

“Whoever, having acquired any of the foregoing properties which was so transported, delivered, carried, or shipped by any means whatever, as aforesaid, makes any false record, account, label or identification thereof, or

“Whoever imports from or exports to Mexico any game mammal, dead or alive, or parts or products thereof, except under permit or authorization of the Secretary of the Interior, in accordance with regulations issued by him and approved by the President—

“Shall be fined not more than $500 or imprisoned not more than six months, or both, and the wild animals or birds, or the dead bodies or parts thereof, or the eggs of such birds, shall be forfeited” (18 U.S.C. 43).

“Whoever ships, transports, carries, brings or conveys in interstate or foreign commerce any package containing wild animals or birds, or the dead bodies or parts thereof, without plainly marking, labeling, or tagging such package with the names and addresses of the shipper and consignee and with an accurate statement showing the contents by number and kind, or

“Whoever ships, transports, carries, brings or conveys in interstate commerce, any package containing migratory birds included in any convention to which the United States is a party, without marking, labeling, or tagging such package as prescribed in such convention, or Act of Congress, or regulation thereunder; or

“Whoever ships, transports, carries, brings or conveys in interstate commerce any package containing furs, hides, or skins of wild animals without plainly marking, labeling, or tagging such package with the names and addresses of the shipper and consignee—

“Shall be fined not more than $500 or imprisoned not more than six months, or both, and the shipment shall be forfeited” (18 U.S.C. 44).

“Any employee authorized by the Secretary of the Interior to enforce sections 43 and 44 of this title, and any officer of the customs, may arrest any person violating said sections in his presence or view, and may execute any warrant or other process issued by an officer or court of competent jurisdiction to enforce the provisions of said sections” (18 U.S.C. 3054).

“Any employee authorized by the Secretary of the Interior to enforce sections 43 and 44 of this title, and any officer of the customs, shall have authority to execute any warrant to search for and seize any property used or possessed in violation of said sections and property so seized shall be held by him or by the U.S. marshall pending disposition thereof by the court” (18 U.S.C. 3112).

[16] “2(a) Except as provided in (b) and (c) of this headnote, the importation of the feathers or skin of any bird is hereby prohibited. Such prohibition shall apply to the feathers or skin of any bird—

“(i) whether raw or processed,

“(ii) whether the whole plumage or skin or any part of either,

“(iii) whether or not attached to a whole bird or any part thereof; and

“(iv) whether or not forming part of another article.

“(b) Headnote 2(a) shall not apply—

[Footnote continued on next page]

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for fishing or for millinery purposes only under a permit issued by the Fish and Wildlife Service, United States Department of Interior, Washington D.C. 20240.[16] No feathers or skins of the pro-species provided for by schedule 1, part 15 D, headnote 2, Tariff Schedules of the United States, shall be permitted to be entered, or withdrawn from warehouse, for consumption, unless the requisite permit is presented with the entry or withdrawal. **[TDs 53251, 55978.]**

(c) The importation of the eggs of wild nongame birds is prohibited except as dead natural history specimens for museum or scientific collection purposes.[16a] The eggs of migratory birds may be imported for propagating purposes or for scientific and other limited purposes under permits issued by the Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240. State game departments, municipal game farms or parks, and public museums, zoological parks or societies, and scientific or educational institutions may import the eggs of migratory birds without a permit (50 CFR 16.3). The eggs of certain game or migratory birds imported for hatching, such as ducks, geese, swans, turkeys, pigeons, doves, pheasant, grouse, partridges, quail, guinea fowl, and pea fowl, are subject to the regulations of the Animal and Plant Health Inspection Service, Veterinary Services, U.S. Department of Agriculture, Washington, D.C. 20250.[16b] Such regulations require that permits, except for eggs from Canada offered for entry at certain land border ports, must be obtained before the eggs are shipped from the country of origin and that all eggs shall be accompanied by a certificate issued by a national government veterinarian of the country of origin and inspected at a designated port of entry. **[TDs 52469, 53102, 53866, 66–68, 78–99, 82–145.]**

(d) Upon the attempted importation of eggs of wild birds, the importation of which is prohibited by schedule 1, part 4E, headnote 1, Tariff Schedules of the United States,[17] the eggs shall be seized and the importer accorded an opportunity to assent to forfeiture. In the event the importer refuses or fails to assent to the forfeiture of the prohibited eggs, the district director shall proceed to forfeit them under the provisions of the tariff act applicable to seizure and forfeiture of merchandise valued at less than $2,500. **[TDs 52469, 53866, 55978.]**

§ 12.30 Whaling.

The importation and exportation of whales or whale products taken or processed in violation of the International Convention for the Regulation of Whaling signed at Washington under date of December 2, 1946,[17a] or of the Whaling Convention Act of 1949,[17b] or of any regulation issued under the said act, [17c] is unlawful. Customs officers and employees shall perform all functions required of them by the above-mentioned convention, law, and regulations. **[TDs 49781, 53244.]**

§ 12.31 Plant pests.

The importation in a live state of insects which are injurious to cultivated crops, including vegetables, field crops, bush fruits, and orchard, forest or shade trees, and of the eggs, pupae, or larvae of such insects, except for scientific purposes under regulations prescribed by the

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[Footnote continued from last page]

"(i) in respect of any of the following birds (other than any such bird which, whether or not raised in captivity, is a wild bird): chickens (including hens and roosters), turkeys, guinea fowl, geese, ducks, pigeons, ostriches, rheas, English ring-necked pheasants, and pea fowl;

"(ii) to any importation for scientific or educational purposes;

"(iii) to the importation of fully-manufactured artificial flies used for fishing;

"(iv) to the importation of birds which are classifiable under item 813.20 of schedule 8; and

"(v) to the importation of live birds.

"(c) Notwithstanding headnote 2(a), there may be entered in each calendar year the following quotas of skins bearing feathers:

"(i) for use in the manufacture of artificial flies used for fishing: (A) not more than 5,000 skins of grey jungle fowl (*Gallussonnerati*), and (B) not more than 1,000 skins of mandarin duck (*Dendronessa galericulata*); and

"(ii) for use in the manufacture of artificial flies used for fishing, or for millinery purposes, not more than 45,000 skins, in the aggregate, of the following species of pheasant: Lady Amherst pheasant (*Chrysolophusamherstiae*),, golden pheasant (*Chrysolophuspictus*), silver pheasant (*Lophuranycthemera*), Reeves pheasant (*Syrmaticusreevesii*), blue-eared pheasant (*Crossoptilonauritum*), and brown-eared pheasant (*Crossoptilonmantchuricum*).

For the purposes of these quotas, any part of a skin which has been severed shall be considered to be a whole skin.

"(d) No article specified in headnote 2(c) shall be entered except under a permit issued by the Secretary of the Interior. The Secretary of the Interior shall prescribe such regulations as may be necessary to carry out the purposes and provisions of headnote 2(c) (including regulations providing for equitable allocation among qualified applicants of the import quotas established by such provisions). Whenever the Secretary of the Interior finds that the wild supply of any species mentioned in headnote 2(c) is threatened with serious reduction or with extinction, he shall prescribe regulations which provide (to such extent and for such period as he deems necessary to meet such threat)—

"(i) in the case of grey jungle fowl or mandarin duck, for the reduction of the applicable import quota.

"(ii) in the case of any species of pheasant, for the reduction of the import quota established for pheasants, for the establishment of a subquota for such species of pheasant, or for the elimination of such species from the import quota for pheasants, or any combination thereof.

The authority granted to the Secretary of the Interior by the preceding sentence to reduce any import quota shall include authority to eliminate such quota.

"(e) Any article of a kind the importation of which is prohibited or subjected to a quota by headnotes 2(a), (b), and (c) and which is in the United States shall be presumed for the purposes of seizure and forfeiture to have been imported in violation of law and shall be seized and forfeited under the customs laws unless such presumption is satisfactorily rebutted; except that such presumption shall not apply to articles in actual use for personal adornment or for scientific or educational purposes. Any article so forfeited may (in the discretion of the Secretary of the Treasury and under such regulations as he may prescribe) (1) be placed with any agency of the Federal Government or of any State government, or any society or museum, for exhibition or scientific or educational purposes, or (2) be destroyed.

"(f) Nothing in these headnotes shall be construed to repeal the provisions of the Act of March 4, 1913, chapter 145 (Thirty-seventh Statutes at Large, page 847), or the Act of July 3, 1918 (Fortieth Statutes at Large, page 755), or any other law of the United States, now of force, intended for the protection or preservation of birds within the United States. If on investigation by the collector before seizure, or before trial for forfeiture, or if at such trial if such seizure has been made, it shall be made to appear to the collector, or the prosecuting officer of the Government, as the case may be, that no illegal importation of such feathers has been made, but that the possession, acquisition or purchase of such feathers is or has been made in violation of the provisions of the Act of March 4, 1913, chapter 145 (Thirty-seventh Statutes at Large, page 847), or the Act of July 3, 1918 (Fortieth Statutes at Large, page 755), or any other law of the United States, now of force, intended for the protection or preservation of birds within the United States, it shall be the duty of the collector, or such prosecuting officer, as the case may be, to report the facts to the proper officials of the United States, or State or Territory charged with the duty of enforcing such laws." (Schedule 1, part 15D, headnote 2, Tariff Schedule of the United States.)

For permit regulations of the United States Fish and Wildlife Service, Department of Interior, see 50 CFR, Part 14.

[16a] See 50 CFR 13.6

[16b] See Appendix XII, Customs Regulations, quoting 9 CFR, Part 92

[17] "1. The importation of eggs of wild birds is prohibited, except eggs of game birds imported for propagating purposes under regulations prescribed by the Secretary of the Interior, and specimens imported for scientific collections." (Schedule 1, part 4E, headnote 1, Tariff Schedules of the United States.) (Sec. 101, 76 Stat. 72, Sc. pt. 4E, headnote 1, part 15D, headnote 2, Tariff Schedules of the United States)

[17a] Publication No. 3383 Dept. of State, Whaling Convention

[17b] 16 U.S.C. 916–916(l)

[17c] Regulations of the International Whaling Commission are codified in 50 CFR, Part 351

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Secretary of Agriculture, is prohibited.[18] All packages containing live insects or their eggs, pupae, or larvae arriving from abroad, unless accompanied by a permit issued by the Department of Agriculture, shall be detained and submitted to the U.S. Department of Agriculture, Animal and Plant Health Inspection Service, Plant Protection and Quarantine Programs of that Department for inspection and determination of their admissibility into the United States. **[TD 49476 (5), BCLs 1945/39, 1988/39, 78–99, 82–145.]**

§ 12.32 Honeybees.

The importation into the United States of honeybees, except by the Department of Agriculture for experimental or scientific purposes, is prohibited,[19] unless such importation is from a country in respect of which the Secretary of Agriculture shall determine that no diseases dangerous to honeybees exist therein. The importation of honeybees that may be lawfully imported is governed by joint regulations of the Secretary of Agriculture and the Secretary of the Treasury published in Treasury Decisions from time to time. **[TDs 44908, 51789, 52492, 82–145.]**

Tea

§ 12.33 Importation of tea; entry; examination for customs purposes.

(a) The importation of any merchandise as tea which is inferior in purity, quality, and fitness for consumption to the standards prescribed by the Act of March 2, 1897, as amended (21 U.S.C. 41–50), is prohibited.[20] Customs officers and employees shall perform all duties required of them by the said act and regulations. **[TDs 21439, 24874, 25903, 35244, 38470, 42344, 51686, 52492, 52543, 53399. CIE 450/40, 78–99.]**

(b) The importation of tea is subject also to the provisions of the Federal Food, Drug, and Cosmetic Act and the regulations thereunder. See § § 12.1 to 12.5.

(c) All entries of tea shall be on regular forms, and the regular serial numbers for both bonds and entries shall be used.

(d) The district director may order such an examination of packages containing tea as will satisfy him that no dutiable goods are packed therein. For this purpose the customary designation shall be made of packages for examination in public stores.

(e) If the invoice has not been received, the importer may use an additional copy of the chop list and release permit required by the regulations of the Department of Health, Education, and Welfare as a pro forma invoice, marking "Pro forma invoice" across the face thereof. **[TDs 53869, 55629.]**

White Phosphorus Matches

§ 12.34 Importation prohibited; certificate of inspection; importer's declaration.

(a) The importation into the United States of white phosphorus matches is prohibited.[21] **[TDs 32975, 55978.]**

(b) Invoices covering matches imported into the United States shall be accompanied by a certificate of official inspection of the Government of the country of manufacture in the following form: **[TDs 33127, 33360, 54056.]**

Certificate of Official Inspection of Matches

____

____

I, ——————(Name), do hereby certify that I am the ———— (Official title), that according to the chemical analysis made by me the matches described below do not contain white or yellow phosphorus and that therefore they are not white phosphorus matches as defined in the Act of Congress of the United States of America approved April 9, 1912;

Numbers of case mark	Description of matches	Name and address of manufacturing	Name of consignee and address, vessel, and date of shipment

____
(Signature)

____
(Official title)

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[18] (a) "No person shall knowingly move any plant pest from a foreign country into or through the United States, or interstate, or knowingly accept delivery of any plant pest moving from any foreign country into or through the United States, or interstate, unless such movement is authorized under general or specific permit from the Secretary and is made in accordance with such conditions as the Secretary may prescribe in the permit and in such regulations as he may promulgate under this section to prevent the dissemination into the United States, or interstate, of plant pests." (7 U.S.C. 150bb(a)).

(b) "The Secretary may refuse to issue a permit for the movement of any plant pest when, in his opinion, such movement would involve a danger of dissemination of such pests. The Secretary may permit the movement of host materials otherwise barred under the Plant Quarantine Act when they must necessarily accompany the plant pest to be moved." (7 U.S.C. 150bb(b)).

(c) "As used in this chapter, except where the context otherwise requires:"

"Plant pest" means any living stage of: Any insects, mites, nematodes, slugs, snails, protozoa, or other invertebrate animals, bacteria, fungi, other parasitic plants or reproductive parts thereof, viruses, or any organisms similar to or allied with any of the foregoing, or any infectious substances, which can directly or indirectly injure or cause disease or damage in any plants or parts thereof, or any processed, manufactured, or other products or plants." (7 U.S.C. 150aa).

[19] (a) In order to prevent the introduction and spread of diseases and parasites harmful to honeybees, and the introduction of genetically undesirable germ plasm of honeybees, the importation into the United States of all honeybees is prohibited, except that honeybees may be imported into the United States—

(1) By the United States Department of Agriculture for experimental or scientific purposes, or

(2) From countries determined by the Secretary of Agriculture—

(A) To be free of diseases or parasites harmful to honeybees, and undesirable species or subspecies of honeybees; and

(B) To have in operation precautions adequate to prevent the importation of honeybees from other countries where harmful diseases or parasites, or undesirable species or subspecies, of honeybees, exist.

(b) Honeybee semen may be imported into the United States only from countries determined by the Secretary of Agriculture to be free of undesirable species or subspecies of honeybees, and which have in operation precautions adequate to prevent the importation of such undesirable honeybees and their semen.

(c) Honeybees and honeybee semen imported pursuant to subsections (a) and (b) of this section shall be imported under such rules and regulations as the Secretary of Agriculture and the Secretary of the Treasury shall prescribe.

(d) Except with respect to honeybees and honeybee semen imported pursuant to subsections (a) and (b) of this section, all honeybees or honeybee semen offered for import or intercepted entering the United States shall be destroyed or immediately exported.

(e) As used in this chapter, the term "honeybee" means all life stages and the germ plasm of honeybees of the genus Apis, except honeybee semen." (7 U.S.C. 281).

[20] See Appendix XV, Customs Regulations.

[21] "The importation of white phosphorous matches is prohibited." (Schedule 7, Part 9A, Headnote 1, Tariff Schedules of the United States.)

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(c) In the absence of such certificate, the matches shall be detained until a certificate is produced or the importer submits satisfactory evidence to show that the matches were not in fact manufactured with the use of poisonous white or yellow phosphorus.

(d) The production of the above certificate shall not be required on the entry of matches manufactured in countries which prohibit the use of white or yellow phosphorus in the manufacture of matches. **[TDs 33158, 33248, 33399, 33441, 33804, 35276, 39014, 40067, 43300, 43438.]**

(e) At the time of filing an entry for imported matches, the importer shall make a declaration that to the best of his knowledge and belief no matches included in the invoice and entry are white phosphorus matches. (Sch. 7, pt. 9A, hdnote. 1, Tariff Schedules of the United States)

§ 12.35 Reserved [TD 82-145.]

Narcotic Drugs

§ 12.36 Regulations of Bureau of Narcotics.

The importation and exportation of narcotic drugs are governed by regulations of the Drug Enforcement Administration Bureau of Narcotics.[23] Customs officers and employees shall perform all duties imposed upon them by such regulations and the laws under which they are issued. Such regulations are in addition to, and not in lieu of, the Customs, internal-revenue, and other pertinent laws and regulations. **[TDs 5191, 34221, 35080, 38381, 39055, 39154, 39308, 39503, 39618, 52492, 78–99.]**

Liquors

§ 12.37 Restricted importations.

(a) The basic permit requirements prescribed by the act of August 29, 1935 (27 U.S.C. 203),[24] shall not be deemed applicable when the district director is satisfied that the liquor is for personal use or for experimental purposes in the making of analyses, tests, or comparisons. **[TDs 47855, 52469, 53399, 78–329]**

(b) The production of a basic permit shall not be required when spirits are withdrawn from warehouse under any form of withdrawal entry.

(c) Blending or rectifying of wines or distilled spirits in class 6 manufacturing warehouses, or the bottling of imported distilled spirits in class 8 manipulation warehouses, shall not be permitted unless the proprietor has obtained an appropriate permit from the Bureau of Alcohol, Tobacco, and Firearms. (Sec. 3, 49 Stat. 978, as amended; 27 U.S.C. 203.)

§ 12.38 Lableing requirements; shipments.

All shipments of liquor not labeled as required by 18 U.S.C. 1263[25] and any vessel or vehicle, other than a common carrier, used in the transportation of such liquor shall be seized and disposed of in accordance with 18 U.S.C. 3615[25] (see 171.22(b) of this chapter). **[FAA TD 6. TDs 30393, 47855, 48448, 48711, 52025, 52469, 70–249, 82–145.]**

Unfair Competition

§ 12.39 Imported articles involving unfair methods of competition or practices.

(a) *Determinations of the International Trade Commission.*—Under section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), unfair methods of competition and unfair practices in the importation or sale of articles, the effect or tendency of which is to destroy, substantially injure, or prevent the establishment of an efficiently and economically operated U.S. industry, or to restrain or monopolize trade and commerce in the United States, are unlawful. After an investigation of an alleged violation of section 337, the U.S. International Trade Commission ("the Commission") may determine that section 337 has been violated. The Commission also may determine during the course of its investigation that there is reason to believe that a violation of section 337 exists. The Commission's determination in either case is effective on the date of its publication in the Federal Register and is referred to the President, who may disapprove the determination for policy reasons on or before the close of a 60-day period beginning on the day after the day he receives a copy of the determination. A Commission determination disapproved by the President shall have no force or effects as of the date the Commission is notified of his disapproval. If the Commission's determination is not disapproved by the President during the 60-day period, or if he notifies the Commission before the close of the period that he approves the determination, the determination becomes final on the day after the close of the period or the day of the notification, whichever is earlier. **[TDs 41655, 42257, 42801, 44411, 44491, 44675, 44776, 44977, 47001, 47168, 47179, 47225, 47393, 47571, 48121, 48129, 48385, 48628, 48845, 50082, 51238, 72-327, 79–231.]**

(b) *Exclusion from entry; entry under bond.*—(1) If the Commission finds a violation of section 337, or reason to believe that a violation exists, it may direct the Secretary of the Treasury to exclude from entry into the United States the articles concerned which are imported by the person violating or suspected of violating section 337. The Commission's exclusion order remains in effect until the Commission determines, and notifies the Secretary of the Treasury, that the conditions which led to the exclu-

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[22] Reserved. TD 82-145.

[23] See Appendix XVI, Customs Regulations.

* * * * *

[24] (a) It shall be unlawful, except pursuant to a basic permit issued under this chapter by the Secretary of the Treasury—

"(1) to engage in the business of importing into the United States distilled spirits wine, or malt beverages. * * *

"(b) It shall be unlawful, except pursuant to a basic permit issued under this chapter by the Secretary of the Treasury—

"(1) to engage in the business of distilling distilled spirits, producing wine, rectifying or blending distilled spirits or wine, or bottling, or warehousing and bottling, distilled spirits. * * *

"* * * This section shall not apply to any agency of a State or political subdivision thereof or any officer or employee of any such agency, and no such agency or officer or employee shall be required to obtain a basic permit under this chapter." (27 U.S.C. 203)

[25] Whoever knowingly ships into any place within the United States any package containing any spirituous, vinous, malted, or other fermented liquor, or any compound containing any spirituous, vinous, malted, or other fermented liquor fit for use for beverage purposes, unless such shipment is accompanied by copy of a bill of lading, or other document showing the name of the consignee, the nature of its contents, and the quantity contained therein, shall be fined not more than $1,000 or imprisoned not more than one year, or both (18 U.S.C. 1263).

"All liquor involved in any violation of sections 1261–1265 of this title, the containers of such liquor, and every vehicle or vessel used in the transportation thereof, shall be seized and forfeited and such property or its proceeds disposed of in accordance with the laws relating to seizures, forfeitures, and dispositions of property or proceeds, for violation of the internal-revenue laws." (18 U.S.C. 3615) (Sec. 1, 62 Stat. 840; 18 U.S.C. 3615)

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sion no longer exist, or until the determination of the Commission on which the order is based is disapproved by the President.

(2) During the period the Commission's exclusion order remains in effect, excluded articles may be entered under a special rider to existing entry bonds, as described in section 113.14(z) of this chapter. However, on or after the date that the Commission's determination of a violation of section 337 becomes final, as set forth in paragraph (a) of this section, articles covered by the determination shall be refused entry.

(3) District directors shall notify each importer or consignee of articles released under bond pursuant to paragraph (b)(2) of this section when the Commission's determination of a violation of section 337 becomes final and that entry of the articles is refused. The importer or consignee shall export or destroy the released articles under Customs supervision within 30 days after the date of notification. The district director who released the articles shall assess liquidated damages in the full amount of the bond rider if the importer or consignee fails to export or destroy the released articles under Customs supervision within the 30-day period. **[TDs 45474, 72-231, 79-231.]**

(c) *Certain importations by or for the United States.*— Any exclusion from entry under section 337 based on claims of U.S. letters patent shall not apply to articles imported by and for the use of the United States, or imported for, and to be used for, the United States with the authorization or consent of the Government. (Secs. 337, 623, 46 Stat. 703, as amended, 759, as amended; 19 U.S.C. 1337, 1623) **[TDs 44675, 48154, 72-327, 72-231, 79-231.]**

§ 12.39a Registered patent owners; import survey.

(a) When the owner of a patent registered in the United States believes that merchandise is being imported into the United States which infringes such patent, an application for a survey to assist the patent owner in taking appropriate action may be made. The purpose of the survey is to provide the patent owner with the names and addresses of importers of merchandise which appears to infringe the registered patent. **[TDs 56137, 72-327.]**

(b) The application may be made by letter addressed to the Commissioner of Customs, Washington, D.C. 20229. It shall state the name and address of the patent owner; and if available, a description of the merchandise believed to infringe the registered patent and the country of manufacture of the merchandise. There shall be submitted with the application a certified copy of the patent issued by the United States Patent Office showing ownership to be in the ame as claimed; 600 soft copies of the patent for distribution to the various ports of entry, and a check or money order to cover the fee prescribed by § 24.12(a)(3) of this chapter for the survey selected.

(c) Surveys will be made for periods of 2, 4 or 6 months at the option of the applicant.

Immoral Articles

§ 12.40 Seizure; disposition of seized articles; reports to United States attorney.

(a) Any book, pamphlet, paper, writing, advertisement, circular, print, picture, or drawing containing any matter advocating or urging treason or insurrection against the United States or forcible resistance to any law of the United States, or containing any threat to take the life of or inflict bodily harm upon any person in the United States, seized under section 305, Tariff Act of 1930, shall be transmitted to the United States attorney for his consideration and action. **[U.S. v. One Package, 86 Fed. (2d) 737. TDs 53268, 71-165.]**

(b) Upon the seizure of articles or matter prohibited entry by section 305, Tariff Act of 1930 (with the exception of the matter described in paragraph (a) of this section), a notice of the seizure of such articles or matter shall be sent to the consignee or addressee. **[TD 53399.]**

(c) When articles of the class covered by paragraph (b) of this section are of small value and no criminal intent is apparent, a blank assent to forfeiture, Customs Form 4607, shall be sent with the notice of seizure. Upon receipt of the assent to forfeiture duly executed, the articles shall be destroyed if not needed for official use and the case closed. **[TDs 44293, 44766, 53866, 76-261.]**

(d) In the case of a repeated offender or when the facts indicate that the importation was made deliberately with intent to evade the law, the facts and evidence shall be submitted to the United States attorney for consideration of prosecution of the offender as well as an action in rem under section 305 for condemnation of the articles. **[TD 52025.]**

(e) If the importer declines to execute an assent to forfeiture of the articles other than those mentioned in paragraph (a) of this section and fails to submit, within 30 days after being notified of his privilege so to do, a petition under section 618, Tariff Act of 1930, for the remission of the forfeiture and permission to export the seized merchandise, information concerning the seizure shall be submitted to the United States attorney in accordance with the provisions of the second paragraph of section 305(a), Tariff Act of 1930, for the institution of condemnation proceedings.

(f) If seizure is made of books or or other articles which do not contain obscene matter but contain information or advertisements relative to means of causing unlawful abortion, the procedure outlined in paragraphs (b), (c), (d), and (e) of this section shall be followed. **[TD 71-165.]**

(g) In any case when a book is seized as being obscene and the importer declines to execute an assent to forfeiture on the ground that the book is a classic, or of recognized and established literary or scientific merit, a petition addressed to the Secretary of the Treasury with evidence to support the claim may be filed by the importer for release of the book. Mere unsupported statements or allegations will not be considered. If the ruling is favorable, release of such book shall be made only to the ultimate consignee. **[TDs 42907, 43600, 44342, 44884(7), 46042(1), 47412.]**

(h) Whenever it clearly appears from information, instructions, advertisements enclosed with or appearing on any drug or medicine or its immediate or other container, or otherwise that such drug or medicine is intended for inducing abortion, such drug or medicine shall be detained or seized. (Secs. 305, 624, 46 Stat. 688, as amended, 759; 19 U.S.C. 1305, 1624) **[TD 71-165.]**

§ 12.41 Prohibited films.

(a) Importers of films, shall certify on Customs Form 3291 that the imported films contain no obscene or immoral matter, nor any matter advocating or urging treason or insurrection against the United States or forcible resistance to any law of the United States, nor any threat to take the life or inflict bodily harm upon any person in the United States. When imported films are claimed to be free of duty as American goods returned, this certification may be made on Customs Form 3311 in the space designated "Remarks" in lieu of on Form 3291. **[TDs 53268, 53336.]**

(b) Films exposed abroad by a foreign concern or individual shall be previewed by a qualified employee of the Customs Service before release. In case such films are imported as undeveloped negatives exposed abroad, the approximate number of feet shall be ascertained by weighing before they are allowed to be developed and printed and such film shall be previewed by a qualified employee of the Customs Service after having been developed and printed.

(c) Any objectionable film shall be detained pending instructions from Headquarters, U.S. Customs Service or a decision of the court as to its final disposition. (Sec. 305, 46 Stat. 688, as amended; 19 U.S.C. 1305)

Merchandise Produced By Convict, Forced, or Indentured Labor

§ 12.42 Findings of Commissioner of Customs.

(a) If any district director or other principal Customs officer has reason to believe that any class of merchandise which is being, or is likely to be, imported into the United States is being produced, whether by mining, manufacture, or other means, in any foreign locality with the use of convict labor, forced labor, or indentured labor under penal sanctions so as to come within the purview of the first sentence of section 307, Tariff Act of 1930,[29] he shall communicate his belief to the Commissioner of Customs. Every such communication shall contain or be accompanied by a statement of substantially the same information as is required in paragraph (b) of this section, if in the possession of the district director or other officer or readily available to him. **[TDs 33889, 44385, 45357, 53408, 53953.]**

(b) Any person outside the Customs Service who has reason to believe that merchandise produced in the circumstances mentioned in paragraph (a) of this section is being, or is likely to be, imported into the United States and, if the production is with the use of forced labor or indentured labor under penal sanctions, that merchandise of the same class is being produced in the United States in such quantities as to meet the consumptive demands of the United States may communicate his belief to any district director or the Commissioner of Customs. Every such communication shall contain, or be accompanied by, (1) a full statement of the reasons for the belief, (2) a detailed description or sample of the merchandise, and (3) all pertinent facts obtainable as to the production of the merchandise abroad. If the foreign merchandise is believed to be mined, produced, or manufactured with the use of forced labor or indentured labor under penal sanctions, such communication shall also contain (4) detailed information as to the production and consumption of the particular class of merchandise in the United States and the names and addresses of domestic producers likely to be interested in the matter.

(c) If any information filed with a district director pursuant to paragraph (b) of this section does not conform with the requirements of that paragraph, the communication shall be returned promptly to the person who submitted it with detailed written advice as to the respects in which it does not conform. If such information is found to comply with the requirements, it shall be transmitted by the district director within 10 days to the Commissioner of Customs, together with all pertinent additional information available to the district director. **[TD 53953.]**

(d) Upon receipt by the Commissioner of Customs of any communication submitted pursuant to paragraph (a) or (b) of this section and found to comply with the requirements of the pertinent paragraph, the Commissioner will cause such investigation to be made as appears to be warranted by the circumstances of the case and the Commissioner or his designated representative will consider any representations offered by foreign interests, importers, domestic producers, or other interested persons.

(e) If the Commissioner of Customs finds at any time that information available reasonably but not conclusively indicates that merchandise within the purview of section 307 is being, or is likely to be, imported, he will promptly advise all district directors accordingly and the district directors shall thereupon withhold release of any such merchandise pending instructions from the Commissioner as to whether the merchandise may be released otherwise than for exportation.

(f) If it is determined on the basis of the foregoing that the merchandise is subject to the provisions of the said section 307, the Commissioner of Customs, with the approval of the Secretary of the Treasury, will publish a finding to that effect in a weekly issue of the Customs Bulletin and in the Federal Register. **[TD 54132.]**

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[29] "All goods, wares, articles, and merchandise mined, produced, or manufactured wholly or in part in any foreign country by convict labor or/and forced labor or/and indentured labor under penal sanctions shall not be entitled to enter at any of the ports of the United States, and the importation thereof is hereby prohibited, and the Secretary of the Treasury is authorized and directed to prescribe such regulations as may be necessary for the enforcement of this provision. The provisions of this section relating to goods, wares, articles, and merchandise mined, produced, or manufactured by forced labor or/and indentured labor, shall take effect on January 1, 1932; but in no case shall such provisions be applicable to goods, wares, articles, or merchandise so mined, produced, or manufactured which are not mined, produced, or manufactured in such quantities in the United States as to meet the consumptive demands of the United States.

"'Forced labor,' as herein used, shall mean all work or service which is exacted from any person under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily." (Tariff Act of 1930, sec. 307; 19 U.S.C. 1307.)

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(g) Any merchandise of a class specified in a finding made under paragraph (f) of this section, which is imported directly or indirectly from the locality specifed in the findings and has not been released from Customs custody before the date of publication of such finding in the Federal Register shall be considered and treated as an importation prohibited by section 307, Tariff Act of 1930, unless the importer establishes by satisfactory evidence that the merchandise was not mined, produced, or manufactured in any part with the use of a class of labor specified in the finding. **[TD 54725.]**

(h) The following findings made under the authority of section 307, Tariff Act of 1930 are currently in effect with respect to the merchandise listed below: (Sec. 307, 46 Stat. 689; 19 U.S.C. 1307) **[TDs 52655, 54132, 55342.]**

Merchandise	Country	T.D.
Furniture, clothes hampers, and palm leaf bags......	Ciudad Victoria, Tamaulipas, Mexico.	53408 54725.

§ 12.43 Proof of admissibility.

(a) If an importer of any article detained under § 12.42(e) or (g) desires to contend that the article was not mined, produced, or manufactured in any part with the use of a class of labor specified in section 307, Tariff Act of 1930, he shall submit to the Commissioner of Customs within 3 months after the date the article was imported a certificate of origin in the form set forth below, signed by the foreign seller or owner of the article. If the article was mined, produced, or manufactured wholly or in part in a country other than that from which it was exported to the United States, an additional certificate in such form and signed by the last owner or seller in such other country, substituting the facts of transportation from such other country for the statements with respect to shipment from the country of exportation, shall be so submitted. **[TDs 53953, 54056.]**

Certificate of Origin

I, ——————————, foreign seller or owner of the merchandise hereinafter described, certify that such merchandise, consisting of ——————————(Quantity) of —————————— (Description) in ——————————(Number and kind of packages) bearing the following marks and numbers —————————was mined, produced, or manufactured by ————————(Name) at or near ——————————, and was laden on board ——————————(Carrier to the United States) at ——————————(Place of lading) (Place of final departure from country of exportation) which departed from on —————————— ; (Date); and that ——————————(Class of labor specified in finding) was not employed in any stage of the mining, production, or manufacture of the merchandise or of any component thereof.

Dated ————————

(Signature)

(b) The importer shall also submit to the Commissioner of Customs within such 3-month period a statement of the ultimate consignee of the merchandise, showing in detail that he had made every reasonable effort to determine the source of the merchandise and of every component thereof and to ascertain the character of labor used in the production of the merchandise and each of its components, the full results of his investigation, and his belief with respect to the use of the class of labor specified in the finding in any stage of the production of the merchandise or of any of its components.

(c) If the certificate or certificates and statements specified in paragraphs (a) and (b) of this section are submitted within the time prescribed and the Commissioner finds that the merchandise is admissible, the collector of customs concerned will be advised to that effect, whereupon he shall release the merchandise upon compliance with the usual entry requirements. (Sec. 307, 46 Stat. 689; 19 U.S.C. 1307)

§ 12.44 Disposition.

Merchandise detained pursuant to § 12.42 may be exported at any time before it is deemed to have been abandoned as hereinafter provided for. If it has not been exported within 3 months after the date of importation, the district director shall ascertain whether the proof specified in § 12.43 has been submitted within the time prescribed in that section. If the proof has not been so submitted, or if the Commissioner of Customs advises the district director that the proof furnished does not establish the admissibility of the merchandise, the district director shall promptly advise the importer in writing that the merchandise is excluded from entry. Upon the expiration of 60 days after the delivery or mailing of such advice by the district director, the merchandise shall be deemed to have been abandoned and shall be destroyed, unless it has been exported or a protest has been filed as provided for in section 514, Tariff Act of 1930. (Sec. 307, 46 Stat. 689; 19 U.S.C. 1307) **[TD 53953.]**

§ 12.45 Transportation and marketing of prison-labor products.

If any apparent violation of section 1761 or 1762, title 18, United States Code,[30] with respect to any imported article comes to the attention of a district director, he shall detain the article and report the facts to the appropriate United States attorney. If the United States attorney advises the district director that action should be taken against the article, it shall be seized and held pending the receipt of further instructions from the United States attorney or the court. **[TD 53953.]**

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[30] "(a) Whoever knowingly transports in interstate commerce or from any foreign country into the United States any goods, wares, or merchandise manufactured, produced, or mined, wholly or in part by convicts or prisoners, except convicts or prisoners on parole or probation, or in any penal or reformatory institution, shall be fined not more than $1,000 or imprisoned not more than one year, or both.

"(b) This chapter shall not apply to agricultural commodities or parts for the repair of farm machinery, nor to commodities manufactured in a Federal, District of Columbia, or State institution for use by the Federal Government, or by the District of Columbia, or by any State or Political subdivision of a State." (18 U.S.C. 1761.)

"(a) All packages containing any goods, wares, or merchandise manufactured, produced, or mined wholly or in part by convicts or prisoners, except convicts or prisoners on parole or probation, or in any penal or reformatory institution, when shipped or transported in interstate or foreign commerce shall be plainly and clearly marked, so that the name and address of the shipper, the name and address of the consignee, the nature of the contents, and the name and location of the penal or reformatory institution where produced wholly or in part may be readily ascertained on an inspection of the outside of such package.

"(b) Whoever violates this section shall be fined not more than $1,000, and any goods, wares or merchandise transported in violation of this section or section 1761 of this title shall be forfeited to the United States, and may be seized and condemned by like proceedings as those provided by law for the seizure and forfeiture of property, imported into the United States contrary to law." (18 U.S.C. 1762.)

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Counterfeit Coins, Obligations, and Other Securities; Illustrations or Reproductions of Coins or Stamps

§ 12.48 Importation prohibited; exceptions to prohibition of importation; procedure.

(a) In accordance with Chapter 25, Title 18, United States Code, any token, disk, or device in the likeness or similitude of any coin of the United States or of a foreign country; counterfeits of coins in circulation in the United States; counterfeited, forged, or altered obligations or other securities of the United States[31] or of any foreign government; or plates, dies, or other apparatus which may be used in making any of the foregoing, when brought into the United States, shall be seized, and delivered to the nearest representative of the United States Secret Service, together with a report of the facts, for appropriate disposition. **[TDs 25403, 29444, 52025, 52469, 53399. 20 Op. A. G. 697; 21 Op. A. G. 136.]**

(b) In accordance with section 504 of title 18, United States Code, the printing, publishing, or importation or the making or importation of the necessary plates for such printing or publishing for philatelic, numismatic, educational, historical, or newsworthy purposes in articles, books, journals, newspapers, or albums (but not for advertising purposes, except illustrations of stamps and paper money in philatelic or numismatic advertising of legitimate numismatists and dealers in stamps or publishers of or dealers in philatelic or numismatic articles, books, journals, newspapers, or albums) of black and white illustrations of canceled and uncanceled United States postage stamps shall be permitted. **[TD 54970.]**

(c) The importation (but not for advertising purposes except philatelic advertising) of motion-picture films, microfilms, or slides, for projection upon a screen or for use in telecasting, of postage and revenue stamps and other obligations and securities of the United States and postage and revenue stamps, notes, bonds, and other obligations or securities of any foreign government, bank, or corporation shall be permitted. **[TD 54970.]**

(d) Printed matter of the character described in section 504, title 18, United States Code,[32] containing reproductions of postage or revenue stamps, executed in accordance with any exception stated in section 504, or colored reproductions of canceled foreign postage stamps may be admitted to entry. Printed matter containing illustrations or reproductions not executed in accordance with such exceptions shall be treated as prohibited importations. If no application for exportation or assent to forfeiture and destruction is received by the district director within 30 days from the date of notification to the importer that the articles are prohibited, the articles shall be reported to the United States attorney for forfeiture. **[TDs 31917, 42736, 52970, 53399, 54970.]**

Fur-Seal or Sea-Otter Skins

§ 12.60 Importation prohibited.

The transportation, importation, sale, or possession of the skins of fur seals or sea otters is prohibited if such skins were taken contrary to the provisions of section 2 of the act of February 26, 1944 (58 Stat. 100-104)[36] or, the case of such skins taken under the authority of the act or any fur-seal agreement, if the skins are not officially marked and certified as required by section 2 of the act. Sec 16[37] makes the act inapplicable to skins taken for scientific purposes under a special permit. **[TD 51274.]**

§ 12.61 Fur-seal or sea-otter skins permitted entry.

(a) Fur-seal or sea-otter skins taken by Indians, Aleuts, or other aborigines under the authority of section 3 of the act,[38] fur-seal skins taken under the authority of the Canadian Government, and fur-seal skins taken on the Pribilof Islands and other specified areas under the authority of

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[31] The term "obligation or other security of the United States" includes all bonds, certificates of indebtedness, national bank currency, Federal Reserve notes, Federal Reserve bank notes, coupons, United States notes, Treasury notes, gold certificates, silver certificates, fractional notes, certificates of deposits, bills, checks, or drafts for money, drawn by or upon authorized officers of the United States, stamps and other representatives of value, of whatever denomination, issued under any act of Congress, and canceled United States stamps." (18 U.S.C. 8)

[32] Notwithstanding any other provision of this chapter, the following are permitted:

(1) The printing, publishing, or importation, or the making or importation of the necessary plates for such printing or publishing, of illustrations of—

(A) Postage stamps of the United States,

(B) Revenue stamps of the United States,

(C) Any other obligation or other security of the United States, and

(D) Postage stamps, revenue stamps, notes, bonds, and any other obligation or other security of any foreign government, bank, or corporation, for philatelic, numismatic, educational, historical, or newsworthy purposes in articles, books, journals, newspapers, or albums (but not for advertising purposes, except illustrations of stamps and paper money in philatelic or numismatic advertising of legitimate numismatists and dealers in stamps or publishers of or dealers in philatelic or numismatic articles, books, journals, newspapers, or albums). Illustrations permitted by the foregoing provisions of this section shall be made in accordance with the following conditions—

(i) All illustrations shall be in black and white, except that illustrations of postage stamps issued by the United States or by any foreign government may be in color;

(ii) All illustrations (including illustrations of uncanceled postage stamps in color) shall be of a size less than three-fourths or more than one and one-half, in linear dimension, of each part of any matter so illustrated which is covered by subparagraph (A), (B), (C), or (D) of this paragraph, except that black and white illustrations of postage and revenue stamps issued by the United States or by any foreign government and colored illustrations of canceled postage stamps issued by the United States may be in the exact linear dimension in which the stamps were issued; and

(iii) The negatives and plates used in making the illustrations shall be destroyed after their final use in accordance with this section.

(2) The making or importation, but not for advertising purposes except philatelic advertising, of motion-picture films, microfilms, or slides, for projection upon a screen or for use in telecasting, of postage and revenue stamps and other obligations and securities of the United States, and postage and revenue stamps, notes, bonds, and other obligations or securities of any foreign government, bank, or corporation. No prints or other reproductions shall be made from such films or slides, except for the purposes of paragraph (1), without the permission of the Secretary of the Treasury.

For the purposes of this section the term "postage stamp" includes "postage meter stamps." (18 U.S.C. 504)

[36] "It shall be unlawful, except as hereinafter provided, for any citizen or national of the United States, or person owing duty of obedience to the laws or treaties of the United States, or any vessel of the United States, or person belonging to or on such vessel, to engage in pelagic sealing or sea otter hunting in or on the waters of the North Pacific Ocean, or for any person or vessel to engage in sealing, or for any person or vessel to use any port or harbor or other place subject to the jurisdiction of the United States for any purpose connected in any way with the operation of pelagic sealing, sea otter hunting, or sealing, or for any person to transport, import, offer for sale, or have in possession at any port, place, or on any vessel subject to the jurisdiction of the United States, or raw, dressed, or dyed skins of sea otters taken contrary to the provisions of this section or, where taken pursuant to section 3 of this Act, not officially marked and certified as having been so taken, or raw, dressed, or dyed skins of fur seals taken in or on the waters of the North Pacific Ocean or on lands subject to the jurisdiction of the United States, except seal skins which have been taken under the authority of this Act or under the authority of the respective parties to any fur-seal ement and which have been officially marked and certified as having been so taken." (Sec. 2, 58 Stat. 101)

[37] "Nothing contained in this act shall apply to the killing, capturing, pursuing, transportation, importation, offering for sale, or possession of fur seals or sea otters, or the skins thereof, for scientific purposes under special permit issued therefor by the Secretary." (Sec. 16, 58 Stat. 104) (Secs. 1-17, 58 Stat. 100, 101, as amended, 102-104, 16 U.S.C. 631a-631q)

[38] "Indians, Aleuts, or other aborigines dwelling on the American coasts of the waters of the North Pacific Ocean shall be permitted to carry on pelagic sealing or sea otter hunting without the use of firearms from canoes or undecked boats, propelled wholly by paddles, oars, or sails, and not transported by or used in connection with other vessels, and manned by not more than five persons each, in the way heretofore practiced by said Indians, Aleuts, or other aborigines, and shall be permitted to dispose of the skins of fur seals or sea otters so taken as they see fit, but only after such skins have been officially marked and certified as provided in section 2 of this act. The exception made in this section shall not apply to Indians, Aleuts, or other aborigines in the employment of other persons or who shall engage in pelagic sealing or sea otter hunting under contract to deliver the skins to any person." (Sec. 3, 58 Stat. 101)

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section 4 of the act[39] shall be admitted to entry if officially marked and certified as having been lawfully taken and if accompanied by a declaration of the shipper identifying the skins by marks and numbers as those covered by the official certificate. **[TDs 51274, 53268.]**

(b) Fur-seal or sea-otter skins taken in waters or on land not specified in the act or in the fur-seal agreement with Canada[40] or other fur-seal agreement shall be admitted to entry upon the production of evidence satisfactory to the district director that they have been so taken.

§ 12.62 Enforcement; duties of Customs officers.

(a) In accordance with the authority contained in sections 10 and 12[41] of the act, Customs officers shall arrest or cause to be arrested persons violating the provisions of the act or of any regulation made pursuant thereto; shall search vessels when there is reasonable cause to believe that such vessels are subject to seizure under the act, shall seize any vessel used or employed or which it appears has been or is about to be used or employed in violation of the act or any regulation made pursuant thereto; and shall seize fur seals and sea otters, or the skins thereof, killed, captured, transported, imported, offered for sale, or possessed by any person contrary to the provisions of the act or of any regulation made pursuant thereto. **[TD 51274.]**

(b) All articles, including vessels and equipment, seized by Customs officers for violation of the act shall be turned over to the nearest officer or agent of the Fish and Wildlife Service, Department of the Interior, for appropriate disposition under the act, receipts to be taken in duplicate therefor. One copy of each such receipt shall be transmitted to Headquarters, U.S. Customs Service with a detailed report of the facts in the particular case involved. (Secs. 1-17, 58 Stat. 100, 101, as amended, 102-104; 16 U.S.C. 631a-631g.)

§ 12.63 Seal-skin or sea-otter-skin waste.

Seal-skin or sea-otter-skin waste composed of small pieces not large enough to be sewed together and utilized as dressed fur shall not be subject to the requirements of the regulations in this part. (Secs. 1-17, 58 Stat. 100, 101, as amended, 102-104; 16 U.S.C. 631a-631g.) **[TD 51975.]**

Entry of Motor Vehicles and Motor Vehicle Engines Under the Clean Air Act, as Amended

§ 12.73 Federal motor vehicle air pollution control.

(a) *Standards prescribed by the Department of Health, Education, and Welfare or the Environmental Protection Agency.* Certain new motor vehicles and new motor vehicle engines are subject to emission standards prescribed by the U.S. Environmental Protection Agency or the Department of Health, Education, and Welfare under section 202 of the Clean Air Act, as amended (42 U.S.C. 1857f-1, sec. 6, Public Law 91-604), as set forth in regulations in 40 CFR Part 85. For purposes of this section, "motor vehicle" means any self-propelled vehicle designed for transporting persons or property on a street or highway, and "new motor vehicle" and "new motor vehicle engine" mean a motor vehicle or engine, respectively, manufactured after the effective date of a regulation issued under section 202 of the Act which is applicable to such vehicle or engine (or would have been applicable to such vehicle or engine had it been manufactured for importation into the United States). **[TDs 67-196, 72-45.]**

(b) *Requirements for entry and release.* Each motor vehicle or motor vehicle engine offered for importation or imported into the Customs territory of the United States shall be refused entry unless there is filed with the entry, in duplicate, a declaration verified by the importer or consignee which contains: **[TD 72-45.]**

(1) The name and address of the importer and the consignee;

(2) The make, model, and model year of the vehicle or engine;

(3) The vehicle identification number of such vehicle, or the serial number of such engine (if not chassis mounted);

(4) The date of entry, the vessel or carrier of importation, the port or point of entry, and the entry number (where applicable);

(5) A statement that—

(i) Such 1968, 1969, or 1970 model year motor vehicle or motor vehicle engine is covered by a certificate of conformity with Federal motor vehicle emission standards; or

(ii) Such 1971 or subsequent model year motor vehicle or motor vehicle engine is covered by a certificate of conformity with Federal motor vehicle emission standards and is tagged or labeled in accordance with applicable regulations in 40 CFR Part 85; or

(iii) Such motor vehicle or motor vehicle engine is not covered by a certificate of conformity with Federal motor

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[39] "In order to continue the proper utilization of the fur-seal herd of the North Pacific Ocean and to carry out the purposes of this Act, the Secretary is authorized to permit sealing on the Pribilof and other islands and on the shores of waters subject to the jurisdiction of the United States, by officers and employees of the Fish and Wildlife Service designated by him and by the natives of the Territory of Alaska, and to adopt suitable regulations governing the same whenever he shall determine that such sealing is necessary or desirable and not inconsistent with preservation of the fur seals of the North Pacific Ocean. The Secretary is also authorized to permit pelagic sealing in the event of emergency circumstances by officers, employees and agents of the United States and by the natives of the Territory of Alaska under such conditions and for such periods as may be agreed upon by consultation between the Government of the United States and the Government of Canada in accordance with the provisions of article II of the Provisional Fur Seal Agreement of 1942." (Sec. 4, 58 Stat. 101)

[40] "The provisions of this Agreement shall apply to all water of the Bering Sea and the Pacific Ocean, north of the thirtieth parallel of north latitude and east of the one hundred and eightieth meridian." (Art. I, Provisional Fur Seal Agreement of 1942 between the United States and Canada, E. A. S. 415, 58 Stat. 1379) (Secs. 1-17, 58 Stat. 100, 101, as amended, 102-104; 16 U.S.C. 631a-631q)

[41] "Any officer or employee of the Department of the Interior authorized by the Secretary, any naval or other officer designated by the President, any marshal or deputy marshal, any collector or deputy collector of customs, and any other person authorized by law to enforce the provisions of this act shall have power, without warrant, to arrest any person committing a violation of this act or any regulation made pursuant thereto in his presence or view, and to take such person immediately for examination or trial before an officer or court of competent jurisdiction; and shall have power, without warrant, to search any vessel within any of the territorial waters of the United States, or any vessel of the United States on the high seas, when he has reasonable cause to believe that such vessel is subject to seizure under this section. Any officer, employee, or other person authorized to enforce the provisions of this act shall have power to execute any warrant or process issued by an officer or court of competent jurisdiction for the enforcement of the provisions of this act; and shall have power with a search warrant to search any person, vessel, or place at any time. The judges of the courts established under the laws of the United States, and the United States commissioners, may within their respective jurisdictions, upon proper oath or affirmation showing probable cause, issue warrants in all such cases. All fur seals and sea otters, or the skins thereof, killed, captured, transported, imported, offered for sale, or possessed contrary to the provisions of this act or of any regulation made pursuant thereto, and any vessel used or employed contrary to the provisions of this act or of any regulation made pursuant thereto, or which it reasonably appears has been or is about to be used or employed in or in aid of the performance of any act forbidden by the provisions of this act or of any regulation made pursuant thereto, together with its tackle, apparel, furniture, appurtenances, and cargo, may, whenever and wherever lawfully found, be seized by any such officer, employee, or other person." (Sec. 10, 58 Stat. 102)

"It shall be the duty of all collectors of customs to enforce the provisions of this act with respect to the importations of the skins of fur seal and sea otter." (Sec. 12, 58 Stat. 103) vehicle emission standards, is being imported solely for purposes of display and will not be sold or operated on the public streets or highways; or

(iv) Such motor vehicle or motor vehicle engine is not covered by a certificate of conformity with Federal motor vehicle emission standards, and the importer or consignee is a member of the armed forces of a foreign country on assignment in the United States, or is a member of the Secretariat of a public international organization so designated pursuant to 59 Stat. 669 (22 U.S.C. 288(b)) on assignment in the United States or is a member of the personnel of a foreign government on assignment in the United States who comes within the class of persons for whom free entry of motor vehicles has been authorized by the Department of State, and that such vehicle or engine will not be sold in the United States; or

(v) The importer or consignee is a nonresident of the United States importing such motor vehicle or motor vehicle engine solely for personal use for a period not exceeding 1 year, and such vehicle or engine will not be sold in the United States; or

(vi) Such motor vehicle or motor vehicle engine is not covered by a certificate of conformity with Federal motor vehicle emission standards, is being imported solely for purposes of testing, and will not be sold or operated on the public streets or highways except in accordance with 40 CFR 85.1502 or

(vii) Such motor vehicle or motor vehicle engine is intended solely for export; or

(viii) Such motor vehicle or motor vehicle engine is not subject to the Clean Air Act or regulations thereunder for reasons specified in the declaration; or

(ix) Such motor vehicle or motor vehicle engine is one of a class of vehicles or engines for which an application for certification of conformity is pending before the Administrator of the U.S. Environmental Protection Agency and is being imported under bond in accordance with 40 CFR 85.1503 pending issuance of such certification; or

(x) Such motor vehicle or motor vehicle engine is not covered by a certificate of conformity with Federal motor vehicle emission standards but will be brought into conformity with such standards and is being imported under bond in accordance with 40 CFR 85.1504; or

(xi) Neither the importer nor the consignee possess sufficient information to make any of the preceding declarations but the importer or consignee will seek to determine such information, and such motor vehicle or motor vehicle engine is being imported under bond in accordance with 40 CFR 85.1505.

(c) *Release under bond.* If a declaration filed in accordance with paragraph (b) of this section states that the entry is being made under circumstances described in paragraph (b)(5)(ix), (x), or (xi) of this section, the entry shall be accepted only if the importer or consignee gives a bond on Customs Form 7551, 7553, or 7595 for the production of a declaration that the vehicle is in conformity with Federal emission standards or, in the case of an entry made under circumstances described in paragraph (b)(5)(xi) of this section, for the production of an appropriate declaration under paragraph (b)(5)(i) through (x) of this section. The bond shall be in the amount required under § 113.14 of this chapter. Within 90 days after such entry, or such additional period as the district director of Customs may allow for good cause shown, the importer or consignee shall deliver to the district director the prescribed declaration. If the declaration is not delivered to the district director of Customs for the port of entry of such vehicles or engines within 90 days of the date of entry or such additional period as may be allowed by the district director, for good cause shown, the importer or consignee shall deliver or cause to be delivered to the district director of Customs those motor vehicles or motor vehicle engines which were released in accordance with this paragraph. In the event that any such motor vehicle or motor vehicle engine is not redelivered within 5 days following the date specified in the preceding sentence, liquidated damages shall be assessed in the full amount of a bond given on Form 7551. When the transaction has been charged against a bond given on Form 7553, or 7595, liquidated damages shall be assessed in the amount that would have been demanded under the preceding sentence if the merchandise had been released under a bond given on Form 7551. **[TD 74-227.]**

(d) *Merchandise refused entry.* If a motor vehicle or motor vehicle engine is denied entry under the provisions of paragraph (b) of this section, the district director of Customs shall refuse to release the merchandise for entry into the United States and shall give notice of such refusal to the importer. **[TD 72-45.]**

(e) *Disposition of merchandise refused entry into the United States; redelivered merchandise.* Motor vehicles or motor vehicle engines which are denied entry under paragraph (b) of this section or which are redelivered in accordance with paragraph (c) of this section and which are not exported under customs supervision within 90 days from the date of notice of refusal of admission or date of redelivery shall be disposed of under Customs laws and regulations: *Provided, however,* That any such disposition shall not result in an introduction into the United States of a motor vehicle or motor vehicle engine not covered by a certificate of conformity with Federal motor vehicle emission standards. **[TD 72.45]**

(f) *Prohibited importations.* The importation of motor vehicles and motor vehicle engines, otherwise than in accordance with the provisions of this section, is prohibited. (Sec. 484, 46 Stat. 722, as amended, sec. 203, 79 Stat. 993, as amended; 19 U.S.C. 1484, 42 U.S.C. 1857f-2, 1857(g) **[TD 72-45, 82-145.]**

Motor Vehicles and Motor Vehicle Equipment Manufactured On or After January 1, 1968

§ 12.80 Federal motor vehicle safety standards.

(a) *Standards prescribed by the Department of Transportation.*—Motor vehicles and motor vehicle equipment manufactured on or after January 1, 1968, offered for sale, or introduction or delivery for introduction in interstate commerce, or importation into the United States are subject to Federal motor vehicle safety standards ("safety standards") prescribed by the Secretary of Transportation under sections 103 and 119 of the National Traffic and Motor Vehicle Safety Act of 1966, as amended (15 U.S.C. 1392, 1407) ("the act"), and set forth in 49 CFR part 571. A motor vehicle ("vehicle") or item of motor vehicle equipment ("equipment item"), manufactured on or after January 1, 1968, is not permitted entry into the Customs territory of the United States unless (with certain exceptions set forth in paragraph (b) of this section) it is in conformity with applicable safety standards in effect at the time the vehicle or equipment item was manufactured. **[TD 68-16, 68-305, 71-122, 74-227, 78-478.]**

(b) *Requirements for entry and release.*

(1) Unless the requirement for filing is waived by the district director as provided for in paragraph (f) of this section, each vehicle or equipment item offered for introduction into the Customs territory of the United States shall be denied entry unless the importer or consignee files with the entry a declaration, in duplicate, which declares or affirms one of the following:

(i) The vehicle or equipment item was manufactured on a date when no applicable safety standards were in effect.

(ii) The vehicle or equipment item conforms to all applicable safety standards (or, the vehicle does not conform solely because readily attachable equipment items which will be attached to the vehicle before it is offered for sale to the first purchaser for purposes other than resale are not attached) and bears a certification label or tag to that effect permanently affixed by the original manufacturer to the vehicle or to the equipment item, or to the outside of the container in which the equipment item is delivered, in accordance with regulations issued by the Secretary of Transportation (49 CFR pts. 555, 567, 568, and 571) under section 114 of the act (15 U.S.C. 1403).

(iii) The vehicle or equipment item was not manufactured in conformity with all applicable safety standards, but it has been or will be brought into conformity. Within 120 days after entry, or within a period not to exceed 180 days after entry, if additional time is granted by the Administrator, National Highway Traffic Safety Administration ("Administrator, NHTSA"), the importer or consignee will submit a true and complete statement to the Administrator, NHTSA, identifying the manufacturer, contractor, or other person who has brought the vehicle or equipment item into conformity, describing the exact nature and extent of the work performed, and certifying that the vehicle or equipment item has been brought into conformity, and that the vehicle or equipment item will not be sold or offered for sale until the Administrator, NHTSA, issues an approval letter to the district director stating that the conditions of the bond required by paragraph (e)(1) of this section have been satisfied.

(iv) The vehicle or equipment item is intended solely for export, and the vehicle or equipment item, and the outside of the container of the equipment item, if any, bears a label or tag to that effect.

(v) The importer or consignee is a nonresident of the United States, is importing the vehicle or equipment item primarily for personal use for a period not exceeding 1 year from the date of entry, will not sell it in the United States during that period, and has stated his passport number and country of issue, if he has a passport, on the declaration.

(vi) The importer or consignee is a member of the armed forces of a foreign country on assignment in the United States; a member of the secretariat of a public international organization so designated under the International Organizations Immunities Act (22 U.S.C. 288), as listed in 19 CFR 148.87, on assignment in the United States; or a member of the personnel of a foreign government on assignment in the United States who is within the class of persons for whom free entry of vehicles has been authorized by the Department of State; is importing the vehicle or equipment item for purposes other than resale; and a copy of his official orders, if any, is attached to the declaration (or, if a qualifying member of the personnel of a foreign government on assignment in the United States, the name of the Embassy to which he is accredited is stated on the declaration).

(vii) The vehicle or equipment item is imported solely for the purpose of show, test, experiment, competition (a vehicle the configuration of which at the time of entry is such that it cannot be licensed for use on the public roads is considered to be imported for the purpose of competition), repair, or alteration, and the statement required by 19 CFR 12.80 (c)(2) or (c)(3) is attached to the declaration.

(viii) The vehicle was not manufactured primarily for use on the public roads and is not a "motor vehicle" as defined in section 102 of the act (15 U.S.C. 1391).

(ix) The vehicle is an "incomplete vehicle" as defined in 49 CFR part 568.

(2) A vehicle imported solely for the purpose of test or experiment which is the subject of a declaration filed under paragraph (b) (1) (vii) of this section may be licensed for use on the public roads for a period not to exceed 1 year from the date of importation if use on the public roads is an integral part of the test or experiment. The vehicle may be licensed for use on the public roads for one or more further periods which, when added to the initial 1-year period, shall not exceed a total of 3 years, upon application to and approval by the Administrator, NHTSA.

(c) *Declaration; contents.*

(1) Each declaration filed under paragraph (b) (1) of this section shall include the name and address in the United States of importer or consignee, the date and the entry number (if applicable), the make, model, and engine and body serial numbers, or other identification numbers (if a vehicle), or a description of the item (if an equipment item), and shall be signed by the importer or consignee.

(2) Each declaration filed under paragraph (b)(1)(vii) of this section which relates to a vehicle or equipment item imported for the purpose of show, competition, repair, or alteration shall have attached a statement fully describing the use to be made of the vehicle or equipment item and its ultimate disposition.

(3) Each declaration filed under paragraph (b)(1)(vii) of this section which relates to a vehicle imported solely for the purpose of test or experiment shall have attached a statement fully describing the test or experiment, the estimated period of time necessary to use the vehicle on the public roads, and the disposition to be made of the vehicle after completing of the test or experiment.

(4) Any declaration filed under paragraph (b)(1) of this section may, if appropriate, relate to more than one vehicle or equipment item imported on the same entry.

(d) *Declaration; disposition.*—The district director shall forward the original of each declaration submitted to him under paragraph (b) (1) of this section as soon as practicable to the Director, Office of Vehicle Safety Compliance, National Highway Traffic Safety Administration, Washington, D.C. 20590.

(e) *Release under bond.*

(1) If a declaration is filed under paragraph (b)(1)(iii) of this section, the entry shall be accepted only if the importer or consignee gives a bond on Customs form 7551,

7553, or 7595 in the amount required by section 113.14 of this chapter. A condition of the bond shall be the production of an approval (bond release) letter from the Administrator, NHTSA, stating that the vehicle or equipment item described in the declaration has been brought into conformity with all applicable safety standards. The bond release letter shall be issued upon approval by the Administrator, NHTSA, of the conformity statement submitted by the importer or consignee as provided for in paragraph (b)(1)(iii) of this section. The bond release letter shall be forwarded by the Administrator, NHTSA, to the district director with a copy to the importer or consignee.

(2) If the bond release letter is not received by the district director within 180 days after entry, the district director shall issue a "Notice of Redelivery," Customs form 4647, requiring the redelivery to Customs custody of the vehicle or equipment item. If the vehicle or equipment item is not redelivered to Customs custody or exported under Customs supervision within the period allowed by the district director in the notice of redelivery, liquidated damages shall be assessed in the full amount of a bond given on Customs form 7551. If the transaction has been charged against a bond given on Customs form 7553 or 7595, liquidated damages shall be assessed in the amount that would have been assessed against a bond given on Customs form 7551.

(f) *Waiver of declaration requirements.*—The requirement that a declaration be filed under paragraph (b)(1)(i), (b)(1)(ii), or (b)(1)(v) of this section as a condition to the introduction of a vehicle or equipment item into the Customs territory of the United States may be waived by the district director for a United States-, Canadian-, or Mexican-registered vehicle arriving via land borders.

(g) *Vehicle or equipment item introduced by means of a fraudulent or false declaration.*—Any person who enters, introduces, attempts to enter or introduce, or aids or abets the entry, introduction, or attempted entry or introduction, of a vehicle or equipment item into the Customs territory of the United States by means of a fraudulent entry declaration, or by means of a false entry declaration made without reasonable cause to believe the truth of the declaration, may incur liabilities under section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592).

(h) *Vehicle or equipment item denied entry.*—If a vehicle or equipment item is denied entry under the provisions of paragraph (b) of this section, the district director shall refuse to release the vehicle or equipment item for entry into the Customs territory of the United States and shall issue a notice of that refusal to the importer or consignee.

(i) *Disposition of vehicle or equipment item denied entry; redelivery.*—A vehicle or equipment item denied entry under paragraph (b) of this section, or redelivered to Customs custody under paragraph (e) of this section, which is not exported under Customs supervision within 90 days from the date of the notice of denial of entry or date of redelivery, shall be disposed of under applicable Customs laws and regulations, except that disposition shall not result in the introduction of the vehicle or equipment item into the Customs territory of the United States in violation of the act.

Safety Standards for Boats and Associated Equipment

§ 12.85 Coast Guard boat and associated equipment safety standards.

(a) *Applicability of standards or regulations prescribed by the Commandant, U.S. Coast Guard.* Boats and associated equipment (as hereinafter defined) are subject to U.S. Coast Guard safety regulations or standards when imported or, under certain conditions, brought into the United States after November 1, 1972. Those regulations or standards are prescribed by the Commandant, U.S. Coast Guard, pursuant to sections 5, 7, and 39, Federal Boat Safety Act of 1971 (46 U.S.C. 1454, 1456, 1488), as set forth in 33 CFR Parts 181, 183. **[TD 76-166.]**

(1) The term "boats" includes:

(i) All vessels manufactured or used primarily for noncommercial use.

(ii) All vessels leased, rented, or chartered to another for the latter's noncommercial use.

(iii) All vessels engaged in the carrying of six or fewer passengers (see section 4.80 of this chapter on prohibitions against foreign vessels transporting passengers in the coastwise trade).

(2) For purposes of § 12.85 the term "boat" does not include:

(i) Foreign vessels temporarily using waters subject to U.S. jurisdiction.

(ii) Military or public vessels of the United States, except recreational type public vessels.

(iii) A vessel whose owner is a State or subdivision thereof, which is principally used for governmental purposes, and which is clearly identifiable as such.

(iv) Ships' lifeboats.

(3) The term "associated equipment" means:

(i) Any system, part, or component of a boat as originally manufactured, or a similar part or component manufactured or sold for replacement, repair, or improvement of such system, part, or component (excluding radio equipment).

(ii) Any accessory or equipment for, or appurtenance to, a boat (excluding radio equipment).

(iii) Any marine safety article, accessory, or equipment intended for use by a person on board a boat (excluding radio equipment).

(4) The term "product" as used in this section, includes the terms "boats" and "associated equipment" as defined in paragraphs (a) (1), (2), and (3) of this section.

(b) *Evidence of compliance with boating standards or regulations as condition of entry.* A product for which entry is sought into the Customs territory of the United States will, subject to the exceptions specified in paragraph (c) of this section, be denied entry unless accompanied by evidence of compliance with standards or regulations as follows:

(1) A product subject to standards prescribed in 33 CFR Part 183 will have affixed to it a compliance certification label in accordance with the requirements of Subpart B, 33 CFR Part 181.

(2) A boat hull subject to Subpart C, 33 CFR Part 181 will have affixed to it a hull identification number affixed by the importer or the original manufacturer. The number

shall comply with the format requirements of Subpart C, 33 CFR Part 181.

(c) *Products not in compliance with standards or regulations: Alternative evidence required as condition of entry and release.* Certain products shall be permitted entry and release without a compliance certification label or hull identification number affixed, as is required by Subparts B and C, 33 CFR Part 181, if they fall within one of the following categories, and if the conditions for entry and release specified for each category of product are met:

(1) *Products manufactured before standards or regulations in effect.* For certain products manufactured before an applicable standard or regulation was in effect, a declaration will be filed in accordance with the requirements of paragraph (d) of this section. The declaration will state that the product was manufactured before the applicable standard or regulation was in effect. If the district director believes that it is necessary in a particular case, he may communicate with the nearest Coast Guard district commander by the most expedient means to request that the Coast Guard determine that alteration of the product is not required. A verbal declaration is acceptable at the option of the district director for products entering from Canada or Mexico otherwise than by sea.

(2) *Products exempted from standards or regulations by Coast Guard Grant of Exemption.* For certain products specifically exempted from applicable standards or regulations by a Coast Guard Grant of Exemption, a declaration will be filed in accordance with paragraph (d) of this section. The declaration will state that the product has been specifically exempted from applicable standards or regulations by a U.S. Coast Guard Grant of Exemption, issued under the authority of section 9 of the Federal Boat Safety Act of 1971 (46 U.S.C. 1458), and in effect on the date the product was manufactured. The declaration will also state that the product complies with all the terms and conditions of the exemption. A copy of the exemption, certified by the importer or consignee to be a true copy, shall be attached to each declaration.

(3) *Products to be brought into conformity.* In the case of products that are not in conformity at the time of entry but will be brought into conformity, a declaration will be filed in accordance with paragraph (d) of this section. The declaration will state that the product does not conform with applicable safety standards or regulations, but that the importer or consignee will bring the product into conformity with safety standards or regulations, and will also state that the product will not be sold or offered for sale, or used on waters subject to the jurisdiction of the United States and on the high seas beyond the territorial seas for a vessel owned in the United States except for the purpose of bringing it into conformity, until the bond has been satisfied with respect to this obligation. To secure entry under this provision, bond must be given in accordance with paragraph (e)(1) of this section.

(4) *Certain products entering the United States for repair or alteration.* In the case of a nonresident of the United States who wishes to enter a product for the purpose of making repairs or alterations to it for a period not exceeding 60 days from the date of entry, a declaration will be filed in accordance with paragraph (d) of this section. The declaration shall state that the importer or consignee is a nonresident of the United States, that the product is being brought in for the purpose of making repairs or alterations to it, that it will not remain in the Customs territory of the United States for more than 60 days following the date of the entry, and that it will not be offered for sale, sold, or used for pleasure in waters subject to the jurisdiction of the United States during that time. However, the declaration required by the subparagraph shall be waived for persons regularly entering the United States from Canada or Mexico otherwise than by sea who obtain, by application to the district director, an appropriate means of identification that has been affixed to the boat to serve in place of the declaration.

(5) *Products owned by certain foreign government or international organization personnel.* In the case of an importer or consignee employed in one of the capacities set forth in this subparagraph, a declaration will be filed in accordance with paragraph (d) of this section. The declaration shall state that the importer or consignee is either a member of the armed forces of a foreign country on assignment in the United States, or is a member of the Secretariat of a public international organization so designated pursuant to section 1 of the International Organizations Immunities Act of December 29, 1945 (22 U.S.C. 288), on assignment in the United States, or is a member of the personnel of a foreign government on assignment in the United States who comes within the class of persons for whom free entry of boats has been authorized by the Department of State, and that he is importing the product for purposes other than resale.

(6) *Certain products entered for tests or experimentation.* In the case of an importer or consignee seeking to enter a product, for tests or experimentation for a period not to exceed 1 year, that will not be sold in the United States, a declaration will be filed in accordance with the requirements of paragraph (d) of this section. The declaration will state that the importer or consignee is importing the product solely for the purpose of tests or experiments and it will not be sold or operated in the United States, except where such operation is an integral part of the tests and experiments for which the product was imported. The importer will attach to the declaration a description of the tests and experiments for which the product is being imported, the time period estimated to complete the tests, and the disposition to be made of the product after the tests and experiments are completed. Entry under this subparagraph may be authorized for a period not to exceed 1 year.

(d) *Declaration requirements.* All declarations submitted under paragraph (c) of this section, except verbal declarations submitted pursuant to paragraph (c)(1) of this section, must:

(1) Be filed with the entry, in duplicate.

(2) Be signed by the importer or consignee.

(3) State the name and U.S. address of the importer or consignee.

(4) State the entry number and date.

(5) Provide the make, model, and hull identification number, if affixed, of any boat, and a description of any equipment or component.

(6) Identify, if known the city or State in which the product will be principally located.

The district director shall immediately forward the original of a declaration to the Commandant (G-BBC/62), U.S. Coast Guard, Washington, D.C. 20590.

(e) *Release under bond*—(1) *When bond required.* A bond in the amount prescribed by § 113.14 of this chapter will be required of the importer or consignee on Customs Form 7551, 7553, or 7595 when a declaration is made that a product is to be brought into conformity. When the importer or consignee of a product declares that it will be brought into conformity before being sold or offered for sale, or before being used on waters subject to the jurisdiction of the United States and on the high seas beyond the territorial seas for a vessel owned in the United States and seeks entry of the product under paragraph (c)(3) of this section, the entry shall be accepted only if bond is given for the production of a statement by either the importer or the consignee that the product described in the declaration is in conformity with applicable safety standards or regulations. The statement shall identify the person or firm who has brought the product into conformity with the standards or regulations and shall describe the nature and extent of the work performed.

(2) *Time limitation to produce statement for which bond is obligated.* Within 90 days after entry, or any additional period as the district director may allow for good cause shown, the importer or consignee shall deliver to both the district director and the Commandant, U.S. Coast Guard, a copy of the statement for production of which the bond was obligated. If the statement is not delivered to the district director for the port of entry of the product within 90 days after the date of entry or within an additional period allowed by the district director for good cause shown, the importer or consignee shall deliver or cause to be delivered to the district director those products which were released in accordance with this paragraph.

(3) *Damages to be assessed against bond.* In the event that any product is not redelivered within 5 days following the date required by subparagraph (2) of this paragraph, liquidated damages shall be assessed in the full amount of the bond given on Customs Form 7551. When the transaction has been charged against a bond given on Customs Form 7553 or 7595, liquidated damages shall be assessed in the amount that would be demanded under the preceding sentence if the product had been released under a bond given on Customs Form 7551.

(f) *Products refused entry.* If a product is denied entry under the provisions of this section, the district director shall refuse to release the product for entry into the United States and shall issue a notice of the refusal to the importer or consignee.

(g) *Disposition of products refused entry into the United States; redelivered products.* Products which are denied entry under paragraph (b) of this section, or which are redelivered in accordance with paragraph (e)(2) of this section, and which are not exported under Customs supervision within 90 days from the date of notice of refusal of admission or date of redelivery, shall be disposed of under Customs laws and regulations. However, no such disposition shall result in an introduction into the United States of a product in violation of the Federal Boat Safety Act of 1971 (46 U.S.C. 1451-1489). (Sec. 623, 46 Stat. 759, as amended, secs. 5, 6, 7, 11, 15, 35 Stat. 215, 216, 217, 219 (19 U.S.C. 1623, 46 U.S.C. 1454, 1455, 1456, 1460, 1464) R.S. 251, as amended, secs. 624, 46 Stat. 759 (5 U.S.C. 301, 19 U.S.C. 66, 1624).)

Electronic Products

§ 12.90 Definitions.

As used in sections 12.90 and 12.91—the term "the Act" shall mean the Radiation Control for Health and Safety Act of 1968 (42 U.S.C. 263b et seq.), as amended from time to time. **[TD 70-31.]**

§ 12.91 Electronic products offered for importation under the Act.

(a) *Standards prescribed by the Department of Health and Human Services.* Electronic products offered for importation into the customs territory of the United States are subject to standards prescribed under section 358 of the Act (42 U.S.C. 263f). See 21 CFR, Part 1005.

(b) *Requirements for entry and release.* Electronic products subject to standards in effect under section 358 of the Act (42 U.S.C. 263f) when offered for importation into the Customs territory of the United States shall be refused entry unless there is filled with the entry, in duplicate, a declaration verified by the importer or consignee which identifies the product and affirms:

(1) That the electronic products comply with all standards in effect under section 358 of the Act (42 U.S.C. 263f) and that the certification required by section 360 of the Act (42 U.S.C. 263h) in the form of a label or tag are attached thereto; or

(2) That the certification required by section 360 of the Act is not affixed to the electronic product but that a timely and adequate petition for permission to bring the product into compliance with applicable standards has been or will be filed with the Secretary of Health and Human Services in accordance with 21 CFR 1005.21. The duplicate copy of the declaration filed under this paragraph shall be forwarded by the district director of Customs directly to the Secretary of Health and Human Services or his designee.

(c) *Notice of sampling.* When a sample of a product offered for importation has been requested by the Secretary of Health and Human Services as provided for in 21 CFR 1005.10, the district director of Customs having jurisdiction over the shipment from which the sample is procured shall give to its owner or consignee prompt notice of delivery of, or intention to deliver, such sample. If the notice so requires, the owner or consignee shall hold the shipment of which the sample is typical and not release such shipment until notice of the results of the tests of the sample from the Secretary of Health and Human Services stating the product fulfills the requirements of the Act.

(d) *Release under bond.* If a declaration filed in accordance with paragraph (b) of this section states that the entry is being made under circumstances described in subparagraph (2) of paragraph (b) of this section, the entry shall be accepted only if the importer or consignee gives a bond on Customs Form 7551, 7553, or 7595 for the production of a notification from the Secretary of Health and Human Services or his designee, in accordance with 21 CFR 1005.23, that the electronic product described for consideration of criminal prosecution. The district director of Customs shall hold the seized switchblade knives intact pending disposition of the case. (R.S. 251, sec. 593, 46 Stat. 751, sec. 624, 18 U.S.C. 545) **[TDs 71-243, 72-81, 82-145.]**

Pre-Columbian Monumental and Architectural Sculpture and Murals[1]

§ 12.105 Definitions.

For purposes of §§ 12.106 through 12.109:

(a) The term "pre-Columbian monumental or architectural sculpture or mural" means any stone carving or wall art listed in paragraph (b) of this section which is the product of a pre-Columbian Indian culture of Belize, Bolivia, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Panama, Peru, or Venezuela. **[TDs 73-119, 73-151, 73-165, 77-206, 82-145.]**

(b) The term "stone carving or wall art" includes:

(1) Such stone monuments as altars and altar bases, archways, ball court markers, basins, calendars, and calendrical markers, columns, monoliths, obelisks, statues, stelae, sarcophagi, thrones, zoomorphs;

(2) Such architectural structures as aqueducts, ball courts, buildings, bridges, causeways, courts, doorways (including lintels and jambs), forts, observatories, plazas, platforms, facades, reservoirs, retaining walls, roadways, shrines, temples, tombs, walls, walkways, wells;

(3) Architectural masks, decorated capstones, decorative beams of wood, frescoes, friezes, glyphs, graffiti, mosaics, moldings, or any other carving or decoration which had been part of or affixed to any monument or architectural structure, including cave paintings or designs;

(4) Any fragment or part of any stone carving or wall art listed in the preceding subparagraphs.

(c) The term "country of origin," as applied to any pre-Columbian monumental or architectural sculpture or mural, means the country where the sculpture or mural was first discovered.

§ 12.106 Importation Prohibited.

Except as provided in section 12.107, no pre-Columbian monumental or architectural sculpture or mural which is exported (whether or not such exportation is to the United States) from its country of origin after June 1, 1973, may be imported into the United States. **[TD 78-273]**

§ 12.107 Importations permitted.

Pre-Columbian monumental or architectural sculpture or mural for which entry is sought into the Customs territory of the United States will be permitted entry if at the time of making entry:

(a) A certificate, issued by the Government of the country of origin of such sculpture or mural, in a form acceptable to the Secretary, certifying that such exportation was not in violation of the laws of that country, is filed with the district director of Customs; or

(b) Satisfactory evidence is presented to the district director of Customs that such sculpture or mural was exported from the country of origin on or before June 1, 1973; or

(c) Satisfactory evidence is presented to the district director of Customs that such sculpture or mural is not an article listed in § 12.105. **[TD 82-145.]**

§ 12.108 Detention of articles; time in which to comply.

If the importer cannot produce the certificate or evidence required in § 12.107 at the time of making entry, the district director shall take the sculpture or mural into Customs custody and send it to a bonded warehouse or public store to be held at the risk and expense of the consignee until the certificate or evidence is presented to such officer. The certificate or evidence must be presented within 90 days after the date on which the sculpture or mural is taken into Customs custody, or such longer period as may be allowed by the district director for good cause shown.

§ 12.109 Seizure and forfeiture.

(a) Whenever any pre-Columbian monumental or architectural sculpture or mural listed in § 12.105 is detained in accordance with § 12.108 and the importer states in writing that he will not attempt to secure the certificate or evidence required, or such certificate or evidence is not presented to the district director prior to the expiration of the time provided in § 12.108, the sculpture or mural shall be seized and summarily forfeited to the United States in accordance with Part 162 of this chapter.

(b) Any pre-Columbian monumental or architectural sculpture or mural which is forfeited to the United States shall in accordance with the provisions of Title II of Public Law 92-587, 19 U.S.C. 2093(b):

(1) First be offered for return to the country of origin, and shall be returned if that country presents a request in writing for the return of the article and agrees to bear all expenses incurred incident to such return; or

(2) If not returned to the country of origin, be disposed of in accordance with law, pursuant to the provisions of section 609, Tariff Act of 1930, as amended (19 U.S.C. 1609), and § 162.46 of this chapter **[TD 82-145.]**

Pesticides and Devices

§ 12.110 Definitions.

Except as otherwise provided below, the terms used in §§ 12.111 through 12.117 shall have the meanings set forth for those terms in the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. 136 *et seq.*), hereinafter referred to as "the Act." The term "Administrator" shall mean the Administrator of the Environmental Protection Agency. **[TD 75-194.]**

§ 12.111 Registration.

All imported pesticides are required to be registered under the provisions of section 3 of the Act, and under the regulations (40 CFR 162.10) promulgated thereunder by the Administrator before being permitted entry into the United States. Devices, although not required to be registered, must not bear any statement, design, or graphic representation that is false or misleading in any particular. **[TD 75-194.]**

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[1] 38 FR 10807, May 2, 1973

§ 12.112 Notice of arrival of pesticides and devices.

(a) *General*. An importer desiring to import pesticides or devices into the United States shall submit to the Administrator a Notice of Arrival of Pesticides and Devices (Environmental Protection Agency Form 3540-1), hereinafter referred to as a Notice of Arrival, prior to the arrival of the shipment in the United States. The Administrator shall complete the Notice of Arrival, indicating the disposition to be made of the shipment of pesticides or devices upon its arrival in the United States, and shall return the completed Notice of Arrival to the importer or his agent. **[TD 75-194.]**

(b) *Chemicals imported for use other than as pesticides*. Chemicals which can be used as pesticides but which are not imported for such use and are not shown on the Abbreviated List of Pesticides compiled by the Environmental Protection Agency, may be entered without the submission of the Notice of Arrival.

§ 12.113 Arrival of shipment.

(a) *Notice of arrival presented*. Upon the arrival of a shipment of pesticides or devices, the importer or his agent shall present to the district director of Customs at the port of entry the Notice of Arrival completed by the Administrator and indicating the Customs action to be taken with respect to the shipment. The district director shall compare entry documents for the shipment of pesticides or devices with the Notice of Arrival and notify the Administrator of any discrepancies. **[TD 75-194.]**

(b) *Notice of arrival not presented*. When a shipment of pesticides or devices arrives in the United States without the presentation by the importer or his agent of the Notice of Arrival completed by the Administrator, the shipment shall be detained by the district director at the importer's risk and expense until the completed Notice of Arrival is presented or until other disposition is ordered by the Administrator, but not to exceed a period of 30 days, or such extended period, not in excess of 30 additional days, as the district director for good cause may specially authorize. An application of the importer or his agent requesting an extension of the initial 30-day period shall be filed with the district director at the port of entry.

(c) *Disposition of pesticides or devices remaining under detention*. A shipment that remains detained or undisposed of due to failure of presentment of a completed Notice of Arrival or nonreceipt of an order of the Administrator as to its disposition shall be treated as a prohibited importation. The district director shall cause the destruction of any such shipment not exported by the consignee within 90 days after the expiration of the detention period specified or authorized pursuant to § 12.113(b).

§ 12.114 Release or refusal of delivery.

If the completed Notice of Arrival directs the district director of Customs to release the shipment of pesticides or devices, the shipment shall be released to the consignee. If the completed Notice of Arrival directs the district director to refuse delivery of the shipment, the shipment shall be refused delivery and treated as a prohibited importation. The district director shall cause the destruction of any shipment refused delivery and not exported by the consignee within 90 days after notice of such refusal of delivery. **[TD 75-194.]**

§ 12.115 Release under bond.

If the completed Notice of Arrival so directs, a shipment of pesticides or devices shall be detained at the importer's expense by the district director of Customs pending an examination by the Administrator to determine whether the shipment complies with the requirements of the Act. However, a shipment detained for examination may be released to the consignee prior to a determination by the Administrator provided a bond is furnished on Customs Form 7551, 7553, or 7595 for the return of the merchandise to Customs custody. The bond shall be in the amount required under § 113.14 of this chapter. When a shipment of pesticides or devices is released to the consignee under bond, the shipment shall not be used or otherwise disposed of until the determination is made by the Administrator. **[TD 75-194.]**

§ 12.116 Samples.

Upon the request of the Administrator, either on the completed Notice of Arrival or otherwise, the district director of Customs shall deliver to the Administrator samples of the imported pesticides or devices, together with all accompanying labels, circulars, and advertising matter pertaining to such merchandise. The district director shall notify the consignee, in writing, that the samples of imported pesticides or devices, together with all accompanying labels, circulars, and advertising matter pertaining to such merchandise have been delivered to the Administrator. **[TD 75-194.]**

§ 12.117 Procedure after examination.

(a) *Merchandise complying with the Act*. If, upon examination or analysis of a sample from a shipment of pesticides or devices, the sample is found to be in compliance with the Act, the Administrator shall notify the district director of Customs that the shipment may be released to the consignee. **[TD 75-194.]**

(b) *Merchandise not complying with the Act*. If, upon examination or analysis of a sample from a shipment of pesticides or devices, the sample is found to be in violation of the Act, the consignee shall be notified promptly by the Administrator of the nature of the violation and be given a reasonable time, not to exceed 20 days, to submit written material or, at his option, to appear before the Administrator and introduce testimony, to show cause why the shipment should not be destroyed or refused entry. If, after consideration of all the evidence presented, it is still the opinion of the Administrator that the merchandise is in violation of the Act, the Administrator shall notify the district director of this opinion and the district director shall either (1) refuse delivery to the consignee, or (2) if the shipment has been released to the consignee under bond, demand redelivery of the shipment under the terms of the bond. If the merchandise is not redelivered within 30 days after the date of demand by the district director, the district director shall assess liquidated damages in the full amount of the bond. The district director shall cause the destruction of any merchandise refused delivery to the consignee, or redelivered by the consignee pursuant to a demand therefor, and not exported by the consignee within 90 days after notice of such refusal of delivery or within 90 days after such redelivery, as applicable.

PART 18—TRANSPORTATION IN BOND AND MERCHANDISE IN TRANSIT

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Authority: R.S. 251, sec. 624, 46 Stat. 759, sec. 101, 76 Stat. 72; 5 U.S.C. 301, 19 U.S.C. 66, 1624, Gen. Hdnote. 11, Tariff Schedules of the United States, unless otherwise noted.

Source: 28 FR 14755, Dec. 31, 1963, unless otherwise noted.

General Provisions

§ 18.1 Carriers; application to bond.

(a)(1) Merchandise to be transported from one port to another in the United States in bond, except as provided for in paragraph (b) of this section, shall be delivered to a common carrier, contract carrier, freight forwarder, or private carrier bonded for that purpose, but such merchandise delivered to a common carrier, contract carrier, or freight forwarder may be transported with the use of facilities of other bonded or nonbonded carriers.[1] For the purposes of this section, the term "common carrier" means a common carrier of merchandise owning or operating a railroad, steamship, or other transportation line or route. Only vessels entitled to engage in the coastwise trade (see § 4.80 of this chapter) shall be entitled to transport merchandise under this section. **[CCL 32/56; TDs 40578, 40631, 41760, 42783, 45303, 45690(6), 47505(1)(2), 48418, 48505, 49258, 51590, 52123, 53385, 53399, 55466, 55734, 55801, 56107, 69-14, 69-19, 70-121, 71-70, 73-140.]**

(2) Merchandise to be transported from one port to another in the United States under cover of a TIR carnet (see Part 114 of this chapter), except merchandise not otherwise subject to Customs control, as provided in §§ 18.41 through 18.45, shall be delivered to a common carrier or contract carrier bonded for that purpose, but the merchandise thereafter may be transported with the use of other bonded or nonbonded common or contract carriers. The TIR carnet shall be responsible for liability incurred in the carriage of merchandise under the carnet, and the carrier's bond shall be responsible as provided in § 114.22(c)(3) of this chapter. **[TDs 71-70, 71-263.]**

(3) Merchandise to be transported from one port to another in the United States under cover of an A.T.A. carnet (see Part 114 of this chapter) shall be delivered to a common carrier or contract carrier bonded for that purpose, but the merchandise thereafter may be transported with the use of other bonded or nonbonded common or contract carriers. The A.T.A. carnet shall be responsible for liability incurred in the carriage of merchandise under the carnet, and the carrier's bond shall be responsible as provided in § 114.22(d) of this chapter. **[TD 82-116.]**

(b) Pursuant to Public Resolution 108, of June 19, 1936,[2] and subject to compliance with all other applicable

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[1] Under such regulations and subject to such terms and conditions as the Secretary of the Treasury shall prescribe— **[TD 69-19.]**

(1) Any common carrier of merchandise owning or operating a railroad, steamship, or other transportation line or route for the transportation of merchandise in the United States

(2) Any contract carrier authorized to operate as such by any agency of the United States, and

(3) Any freight forwarder authorized to operate as such by any agency of the United States, upon application, may, in the discretion of the Secretary, be designated as a carrier of bonded merchandise for the final release of which from customs custody a permit has not been issued. A private carrier, upon application, may, in the discretion of the Secretary, be designated under the preceding sentence as a carrier of bonded merchandise, subject to such regulations and, in the case of each applicant, to such special terms and conditions as the Secretary may prescribe to safeguard the revenues of the United States with respect to the transportation of bonded merchandise by such applicant. (19 U.S.C. 1551.)

[2] "The Secretary of the Treasury be, and he is hereby, authorized, when it appears to him to be in the interest of commerce and notwithstanding any provision of law or regulation requiring that the transportation of imported merchandise be by a bonded common carrier, to permit such merchandise which has been entered and examined for customs purposes to be transported by bonded cartmen or bonded lightermen between the ports of New York, Newark, and Perth Amboy, which are all included in Customs Collection District Numbered 10 (New York): *Provided*, That this resolution shall not be construed to deprive any of the ports affected of its rights and privileges as a port of entry." (19 U.S.C. 1551a) (Sec. 551, 46 Stat. 742, as amended, 49 Stat. 1538, 80 Stat. 379, R.S. 251 as amended, secs. 551, 624, 19 U.S.C. 1551, 1551a)

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provisions of this part, the appropriate area director, upon the request of the party in interest, may permit merchandise entered and examined for Customs purposes to be transported in bond between the ports named in the resolution by bonded cartmen or lightermen duly qualified in accordance with the provisions of Part 112 of this chapter, if the appropriate area director is satisfied that the transportation of such merchandise in this manner will not endanger the revenue. **[TDs 78–99, 82–145.]**

§ 18.2 Receipt by carrier; manifest.

(a) When merchandise is delivered to a bonded carrier for transportation in bond, the merchandise shall be laden on the conveyance under the supervision of a Customs officer unless the transporting conveyance is not to be sealed with Customs seals or the lading inspector accepts the check of the carrier as to the merchandise laden thereon. The carrier's receipt shall be given immediately to the lading inspector on the Customs in-bond document (the appropriate Customs Forms 7512 or 7520, or the TIR or A.T.A. carnet) covering the merchandise. In the case of a carnet, the receipt shall be given on the appropriate vouchers in the following form: **[TDs 37341, 41283, 41284, 41332, 48505, 53893, 53989, 71–70, 82–116.]**

Received the cargo listed herein for delivery to Customs at the indicated port of destination or exportation, or for direct exportation. ———————— Name of Carrier (or Exporter) ———— ———— Attorney or Agent of Carrier (or Exporter) ————— — (Date)

(b) A Customs in-bond document containing a description of the merchandise shall be prepared by the carrier or shipper and signed by the agent of the carrier whenever merchandise is being transported in bond. All copies of the in-bond document shall be signed by the importing carrier or his agent and the in-bond carrier or his agent to indicate the quantity delivered for transportation in bond. When there is no discrepancy between the quantity manifested by the importing carrier and the quantity delivered to the in-bond carrier, the district director of Customs may authorize waiving the signature of the parties in interest as to delivered quantities. Except as prescribed in Subpart D of Part 123 of this chapter, relating to merchandise in transit through the United States between ports in contiguous foreign territory, a separate set shall be prepared for each entry and, if the consignment is contained in more than one conveyance, a separate set shall be prepared for each conveyance. **[TDs 45804, 70–121, 71–22, 71–70.]**

(c) After the merchandise has been laden and the in-bond carrier or his agent has receipted the in-bond document, either Customs Form 7512 or Customs Form 7520, in duplicate, or the carnet, together with the related Customs Form 7512–C (duplicate), shall be delivered as a manifest to the conductor, master, or person in charge to accompany the merchandise to destination. If more than one conveyance is used to transport merchandise, the Customs Form 7512–C (duplicate) shall accompany the first conveyance, and two copies of Customs Form 7512 shall accompany each conveyance as a manifest of the merchandise transported by that conveyance. A TIR carnet (see § 18.3(b)) shall not be used if more than one conveyance is required. **[TDs 37341, 53336, 53531, 53792, 54429, 71–70, 82–116.]**

(d) Upon arrival of the merchandise at the port of destination, the delivering carrier shall promptly surrender the in-bond manifest and related Customs Form 7512–C (duplicate) to the district director as a notice of arrival of the merchandise. If the in-bond manifest is lost in transit, the in-bond carrier will be responsible for obtaining copies of the original. **[TDs 69–19, 71-70.]**

§ 18.3 Transshipment;[3] transfer by bonded cartmen.

(a) When bonded merchandise in one conveyance is to be transshipped under Customs supervision to another single conveyance while en route to the port of destination or exportation, the in-bond document which accompanied the merchandise shall be presented to the district director of Customs at the place of transshipment for execution of a certificate of transfer thereon. The in-bond document shall be returned to the carrier to accompany the merchandise to the port of destination or exportation. Except as provided in paragraph (c) of this section, merchandise covered by a TIR carnet shall not be transshipped if the transshipment involves the unlading of the merchandise from a container or road vehicle. **[TDs 41283, 47505(1), 48505, 51035, 51215, 54880, 71–70.]**

(b) When bonded merchandise, other than merchandise covered by a TIR carnet, is to be transshipped into more than one conveyance, the carrier, agent of the shipper, or forwarder shall prepare, for each such conveyance, two additional copies of the Customs Form 7512 which accompanied the merchandise to the place of transshipment. The Form 7512 and Customs Form 7512–C (duplicate) which accompanied the shipment to the place of transshipment shall be presented to the district director there. The Customs officer supervising the transshipment shall execute a certificate of transfer on all copies of the Form 7512. The original copies of the Form 7512 and related Form 7512–C (duplicate) shall be delivered to the conductor, master, or person in charge of the first conveyance. Two additional copies of the Form 7512 shall be similarly delivered to the person in charge of each additional conveyance in which the merchandise is forwarded for delivery to the district director at the port of destination or exportation. **[TDs 46188, 54880, 71–70.]**

(c) Merchandise covered by a TIR carnet may be transshipped in a case involving the unlading of the merchandise from a container or road vehicle only if the transshipment is necessitated by casualty en route. In the event of transshipment, a TIR approved container or road vehicle shall be used if available. If the transshipment takes place under Customs supervision, the Customs officer shall excute a certificate of transfer on the appropriate TIR carnet voucher. **[TDs 32086, 43576, 47639(6), 71–70.]**

(d) If it becomes necessary at any point in transit to remove the Customs seals from a conveyance or container containing bonded merchandise for the purpose of transferring its contents to another conveyance or container, or to gain access to the shipment because of casuaccepted shall not carry merchandise covered by a TIR carnet. (77A Stat. 14, sec. 14, 67 Stat. 516, secs. 623, 624, 46 Stat. 759, as amended; 19 U.S.C. 1202 (Gen. Hdnote. 11), 1322, 1623, 1624)

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[3] For provisions for transshipment or unlading due to accident or other casualty, see § 4.31 of this chapter.

§ 18.5 Diversion.

(a) Merchandise forwarded under any class of transportation entry may be diverted to any port other than the port named in the entry at the option of the consignee or agent. Except as provided for in paragraphs (c), (d), and (e), of this section, prior application or approval of such diversion is not required. **[TDs 17688, 37340, 37460, 38287 (Q. 34), 48505, 53792, 71-70.]**

(b) The district director of Customs at the port to which merchandise is diverted may permit merchandise in transit under bond under any class of transportation entry to be entered at his port for consumption, warehouse, exportation, further transportation in bond, or under any provisions of the tariff laws. **[TDs 40351, 46032, 50982, 71-70.]**

(c) When merchandise which has been delivered to the district director at the port of original destination or port of diversion under any class of transportation entry is to be forwarded to another port or returned to the port of origin, a new transportation entry shall be required. If the merchandise is moving under cover of a carnet, the carnet may be accepted as a transportation entry. **[TDs 39514, 53792, 71-70, 82-116.]**

(d) If it is desired to split a shipment at a port of destination and to enter a portion for consumption or warehouse and forward the balance in bond, or to divert the entire shipment or a part thereof to more than one port, the district director at the port where diversion takes place shall complete the original transaction and shall require the filing of a new transportation entry or entries for the portion or portions forwarded. In the case, however, of merchandise being transported under cover of a carnet, splitting up of a shipment shall not be permitted. **[TDs 53792, 71-70, 82-116.]**

(e) The diversion of shipments in bond which are subject on importation to restriction or prohibition under quarantines and regulations of the Agricultural Research Service of the Department of Agriculture shall be allowed only upon written permission or under regulations issued by the agency concerned. (Secs. 551-553, 46 Stat. 742, as amended; 19 U.S.C. 1551-1553) **[TDs 49600, 71-70.]**

§ 18.6 Short shipments; shortages; entry and allowance.

(a) When there has been a short shipment and the short-shipped packages are subsequently received, they may be forwarded only under a new transportation entry referenced to the original entry. **[TDs 32280, 48505, 71-70.]**

(b) When there is a shortage of one or more packages or nondelivery of an entire shipment, and inquiry by the carrier discloses that the merchandise has been delivered directly to the consignee, entry therefore may be accepted if the merchandise can be recovered intact without any of the packages having been opened. In such cases, any shortage from the invoice quantity shall be presumed to have occurred while the merchandise was in the possession of the bonded carrier. **[TDs 71-22, 71-70.]**

(c) If the merchandise cannot be recovered intact, as specified above, entry shall be accepted in accordance with § 141.4 of this chapter for the full manifested quantity unless a lesser amount is otherwise permitted in accordance with Subpart A of Part 158. Except as provided in paragraph (d) of this section, there shall be sent to the initial bonded carrier a demand for liquidated damages on Customs Form 5955–A, in the case of nondelivery of an entire shipment or on Customs Form 5931, in the case of a partial shortage. **[TDs 37498, 71-22, 71-70, 82-158.]**

(d) If merchandise covered by a carnet cannot be recovered intact, as specified in paragraph (b) of this section, entry shall not be accepted; there shall be sent to the appropriate guaranteeing association a demand for pecuniary penalties, liquidated damages, duties, and taxes as prescribed in § 18.8(e); and, if appropriate, there shall also be sent to the initial bonded carrier a demand for any excess, as provided in § 114.22(c)(3) of this chapter. Demands shall be made on the forms specified in paragraph (c) of this section. **[19 USC 1558. TDs 22465, 47569, 71-70, 82-116.]**

(e) An allowance in duty on merchandise reported short at destination, including merchandise found by the appraising officer to be damaged and worthless, and animals and birds found by the discharging officer to be dead on arrival at destination, shall be made in the liquidation of the entry. **[TDs 51275, 70-121, 71-70.]**

(f) In the case of shipments arriving in the United States by rail or seatrain which are forwarded under Customs in-bond seals under the provisions of Subpart D of Part 123 of this chapter, and § 18.11, or § 18.20, a notation shall be made by the carrier or shipper on the in-bond manifest, Customs Form 7512, to show whether the shipment was transferred to the car designated in the manifest or whether it was laden in the car in the foreign country, which shall be named. (Secs. 551, 552, 553, 46 Stat. 742, as amended; 19 U.S.C. 1551, 1552, 1553) **[TD 71-70.]**

§ 18.7 Lading for exportation, verification of.

(a) When merchandise covered by an in-bond entry is delivered to the exporting carrier at the port of exportation, the in-bond document and the related Customs Form 7512–C (duplicate) shall be promptly delivered to the district director of Customs. **[TDs 53893, 71-70.]**

(b) The district director shall require only such supervision of the lading for exportation of merchandise covered by an entry or withdrawal for exportation or for transportation and exportation as is reasonably necessary to satisfy him that the merchandise has been laden on the exporting conveyance.

(c) Whenever the circumstances warrant, and occasionally in any event, district directors shall request the Office of Investigations to check export entries and withdrawals against the records of the exporting carriers. Such check or verification shall include an examination of the carrier's records of claims and settlement of export freight charges and any other records which may relate to the transaction. The exporting carrier shall maintain these records for 5 years from the date of exportation of the merchandise. (Secs. 553, 557, 46 Stat. 742, as amended, 744 as amended, sec. 646, 67 Stat. 520; 19 U.S.C. 1553, 1557, 1646a) **[TD 79-159.]**

§ 18.8 Liability for shortage, irregular delivery, or nondelivery; penalties.

(a) The initial bonded carrier shall be responsible for shortage, irregular delivery, or nondelivery at destination or port of exit of bonded merchandise, received by it for carriage. When sealing is waived, any loss found to exist at destination shall be presumed to have occurred while the merchandise was in the possession of the carrier, unless conclusive evidence to the contrary is produced. [**[CCL 26/56. TDs 48505. 49209 (4). 71–70.]**

(b) Penalties imposed as liquidated damages under the carrier's bond for shortage, failure to deliver, or irregular delivery shall be as follows:

(1) In the case of shortage, failure to deliver, or delivery direct to the consignee or other person of any merchandise free of duty, a minimum of $50 and a maximum of $100, in any one shipment, to be determined within the discretion of district director. **[CCL 48/57. TD 55801 82–13.]**

(2) In the case of shortages or failure to deliver merchandise subject to duty, an amount equal to the duties on the missing merchandise or, if the duties cannot be estimated promptly, an amount equal to 70 per centum of the value shown on the manifest. **[TD 52006.]**

(3) In the case of unauthorized delivery directly to the consignee or other person of merchandise subject to duty, an amount equal to one and one-quarter times the estimated duty thereon, or, if the duties cannot be estimated promptly, an amount equal to 70 per centum of the value shown on the manifest. **[TDs 38266. 52006. 53893.]**

(c) In addition to the penalties described in paragraph (b) of this section, the carrier shall pay any internal-revenue taxes, duties or other taxes accruing to the United States on the missing merchandise, together with all costs, charges, and expenses caused by the failure to make the required transportation, report, and delivery. **[TD 53399 82–13.]**

(d) In any case in which liquidated damages imposed in accordance with this section do not aggregate over $50,000 and the district director is satisfied by evidence submitted to him with an application for relief from the payment thereof filed as provided in Part 172 of this chapter that any shortage, irregular delivery, nondelivery, or any failure to obtain Customs supervision was without any intent to evade any law or regulation, the district director may cancel such claim upon the payment of any lesser amount or without the payment of any amount, as he may deem appropriate under the law and in view of the circumstances. **[TDs 53919. 54346. 70–249. 71–70. 73–308.]**

(e)(1) The domestic guaranteeing association shall be jointly and severally liable with the initial bonded carrier for pecuniary penalties, liquidated damages, duties, and taxes accruing to the United States, and any other charges imposed as the result of any shortage, irregular delivery, or nondelivery at the port of destination or port of exit of merchandise covered by a TIR carnet. Penalties imposed as liquidated damages for any shortage, irregular delivery, or nondelivery shall be computed in accordance with subparagraphs (1), (2), and (3) of paragraph (b) of this section. If a TIR carnet has not been discharged, or has been discharged subject to a reservation, the guaranteeing association shall be notified within 1 year of the date upon which the carnet is taken on charge, except that if the discharge shall have been obtained improperly or fraudulently the period shall be 2 years. No claim for payment under a TIR carnet shall be made against a guaranteeing association more than 3 years after the date when the association was informed that the carnet had not been discharged, or had been discharged subject to a reservation, or that the certificate of discharge had been obtained improperly or fraudulently. However, in cases which become the subject of legal proceedings during the above-mentioned 3-year period, no claim for payment shall be made more than 1 year after the date when the decision of the court becomes enforceable. **[TD 71–70.]**

(2) Within 3 months from the date demand for payment is made by the district director as provided by § 18.6(d), the guaranteeing association shall pay the amount claimed, except that if the amount claimed exceeds the liability of the guaranteeing association under the carnet (see § 114.22(d) of this chapter), the carrier shall pay the excess. The amount paid shall be refunded if, within a period of 1 year from the date on which the claim for payment was made, it is established to the satisfaction of the Commissioner of Customs that no irregularity occurred. The district director may cancel liquidated damages assessed against the guaranteeing association to the extent authorized by paragraph (d) of this section.

(3) The domestic guaranteeing association shall be jointly and severally liable with the initial bonded carrier for pecuniary penalties, liquidated damages, duties, and taxes accruing to the United States and any other charges imposed as the result of any shortage, irregular delivery, or nondelivery at the port of destination or port of exit of merchandise covered by an A.T.A. carnet. However, the liability of the guaranteeing association shall not exceed the amount of the import duties by more than 10 percent. If an A.T.A. carnet is unconditionally discharged with respect to certain goods, the guaranteeing association will no longer be liable on the carnet with respect to those goods unless it is subsequently discovered that the discharged of the carnet was obtained fraudulently or improperly or that there has been a breach of the conditions of temporary admission or of transit. No claim for payment shall be made more than one year following the date of expiration of the validity of the carnet. The guaranteeing association shall be allowed a period of six months from the date of any claim by the district director in which to furnish proof of the reexportation of the goods or of any other proper discharge of the A.T.A. carnet. If such proof is not furnished within the time specified, the guaranteeing association shall either deposit or provisionally pay the sums. The deposit or payment shall become final three months after the date of the deposit or payment, during which time the guaranteeing association may still furnish proof of the reexportation of the goods to recover the sums deposited or paid. **[TD 82–116]**

(Sec. 551, 623, 46 Stat. 742, as amended, 759, as amended; 19 U.S.C. 1551, 1623)

§ 18.9 Examination by inspectors of trunk line associations or agents of the Interstate Commerce Commission.

(a) Upon presentation of proper credentials showing the applicant to be a representative of the Trunk Line Association, the Interstate Commerce Commission, the Joint Rate Inspection Bureau of Chicago, or the Southern Weighing and Inspection Bureau of Atlanta, inspectors of Customs in charge shall permit such applicant to open and examine packages containing in-bond merchandise described in the manifest in general terms for the purpose of ascertaining whether the merchandise is properly classified under the interstate commerce laws. **[TDs 33465. 33723. 40493.]**

(b) The opening and examination of such packages shall be without expense to the Customs Service or the owner of the goods and shall be done in the presence of a Customs officer. The contents of the cases shall not be removed or disturbed further than is necessary to ascertain the character thereof. The Customs officer shall require the packages to be securely closed, and shall note on the manifest the packages so inspected, the date, and by whom inspected. (Sec. 551, 46 Stat. 742, as amended; 19 U.S.C. 1551)

§ 18.10 Kinds of entry.

(a) The following entries and withdrawals may be made for merchandise to be transported in bond:[4] **[TDs 38539, 48505, 53399.]**

(1) Entry for immediate transportation without appraisement.

(2) Warehouse or rewarehouse withdrawal for transportation.

(3) Warehouse or rewarehouse withdrawal for exportation or for transportation and exportation.

(4) Entry for transportation and exportation.

(5) Entry for exportation.

(b) The copy of each entry or withdrawal made in any of the classes named in paragraph (a) of this section which is retained in the office of the forwarding district director shall be signed by the party making the entry or withdrawal. In the case of shipments to the Virgin Islands (U.S.) under paragraph (a), (3), (4), or (5) of this section, one additional copy of the entry or withdrawal on Customs Form 7512 shall be filed and shall be mailed by the receiving district director to the district director, Charlotte Amalie, St. Thomas, Virgin Island (U.S.). (Secs. 552, 553, 557, 46 Stat. 742, as amended, 744, as amended; 19 U.S.C. 1552, 1553, 1557) **[TDs 53792, 54429.]**

§ 18.10a Special manifest.

Merchandise for which no other type of bonded movement is appropriate may be shipped in bond from one port to another when such shipment is authorized by the district director having custody of the merchandise. For this purpose Customs Form 7512 prepared in quadruplicate shall be used as a special manifest. **[TD 54544.]**

Immediate Transportation Without Appraisement

§ 18.11 Entry; classes of goods for which entry is authorized; form used.

(a) Entry for immediate transportation without appraisement may be made under section 552, Tariff Act of 1930,[5] (1) for any merchandise, except explosives and prohibited merchandise, upon its arrival at a port of entry, or (2) for merchandise in general-order warehouse at any time within 1 year from the date of importation. **[TDs 10850, 21219, 53888, 71-70.]**

(b) Entry for immediate transportation without appraisement may be made by (1) the carrier bringing the merchandise to the port of arrival, (2) the carrier who is to accept the merchandise under its bond or a carnet for transportation to the port of destination, or (3) any person shown by the bill of lading or manifest, a certificate of the importing carrier, or by any other document satisfactory to the district director of Customs, to have a sufficient interest in the merchandise for that purpose. **[CIE 376/59, TDs 20111, 54235, 71-70, 82-116.]**

(c) Before a shipment covered by an entry for immediate transportation, including a carnet, or a manifest of baggage shipped in bond (other than baggage to be forwarded in bond to a Customs station—see § 18.13(a)), shall be allowed to be transported directly to a place of deposit outside a port of entry for examination and release as contemplated by section 484(f), Tariff Act of 1930, as amended,[6] the consent of the district director of customs for the port of entry designated in the transportation entry or baggage manifest (or in the event of diversion under § 18.5, for the port of destination of the merchandise or baggage) must first be secured. Before consent may be given, the importer must furnish such district director with a stipulation that, promptly upon the arrival of any part of the merchandise or baggage at the place of deposit, he will file an entry for the shipment at the port of entry designated in the transportation entry or baggage manifest (or in the event of diversion under § 18.5, at the port of destination of the merchandise or baggage) and will comply with the provisions of § 151.9 of this chapter. **[CCL 11/54, TDs 53336, 54388, 71-70, 73-175, 82-116.]**

(d) Carload shipments of livestock shall not be entered for immediate transportation without appraisement unless they will arrive at destination before it becomes necessary to remove the seals for the purpose of watering and feeding the animals, or unless the route be such that the removal of the seals and the watering, feeding, and reloading of the stock may be done under Customs supervision. **[TDs 43577, 43578.]**

(e) Entries for immediate transportation without appraisement covering merchandise subject to detention or supervision by any Federal agency shall contain a sufficient description of the merchandise to enable the representative of the agency concerned to determine the contents of the shipment. Such merchandise covered by quarantines and regulations administered by the Bureau of Entomology and Plant Quarantine shall be forwarded under such entries only upon written permission of or under regulations issued by that Bureau.[7] **[TDs 38523, 49600.]**

(f) One or more entire packages of merchandise covered by an invoice from one consignor to one consignee may be entered for consumption or warehouse at the port of first arrival, and the remainder entered for immediate

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[4] Before shipping merchandise in bond to another port for the purpose of warehousing or rewarehousing, the shipper should ascertain whether warehouse facilities are available at the intended port of destination.

[5] "Any merchandise, other than explosives and merchandise the importation of which is prohibited, arriving at a port of entry in the United States may be entered, under such rules and regulations as the Secretary of the Treasury may prescribe, for transportation in bond without appraisement to any other port of entry designated by the consignee, or his agent, and by such bonded carrier as he designates, there to be entered in accordance with the provisions of this Act." (Tariff Act of 1930, sec. 552; 19 U.S.C. 1552)

Special provisions concerning the shipment of baggage under this provision of law are contained in § 18.13.

[6] "* * * in the case of articles not subject to a quantitative or tariff-rate quota, entry for the entire quantity covered by an entry for immediate transportation made under section 552 of this Act may be accepted at the port of entry designated by the consignee, or his agent, in such entry after the arrival of any part of such quantity at such designated port or at such other place of deposit as may be authorized in accordance with regulations prescribed by the Secretary of the Treasury." (Tariff Act of 1930, sec. 484(f), as amended; 19 U.S.C. 1484(f))

[7] For procedure as to merchandise subject to quarantine, disinfection, and special inspection, if not forwarded in bond, see Part 12 of this chapter.

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transportation without appraisement, provided all the merchandise covered by the invoice is entered simultaneously and any carnet which may cover such merchandise is discharged as to that merchandise. [TD 71-70, 82-116.]

(g) Several importations may be consolidated in one immediate transportation without appraisement entry when bills of lading or carrier's certificates name only one consignee at the port of first arrival. However, merchandise moving under cover of a carnet may not be consolidated with other merchandise. [TD 71-70, 82-116.]

(h) Either Customs Form 7512 or a carnet shall be used as a combined transportation entry, invoice, and manifest. If Customs Form 7512 is used, a minimum of three copies shall be required at the port of origin. The district director, however, may require additional copies of Customs Form 7512 or the Goods Manifest of the carnet for use in connection with the delivery of the merchandise to the bonded carrier. In lieu of additional copies of the Goods Manifest, the district director may accept copies of a bill of lading covering the merchandise. The merchandise shall be described in such detail as to enable the district director to estimate the duties and taxes, if any, due. The district director may require evidence to satisfy him of the approximate correctness of the value or quantity stated in the entry. If a TIR carnet is used, and the duties and taxes estimated to be due exceed the maximum liability of the guaranteeing association under the carnet, the provisions of § 114.22(d) of this chapter shall apply. [CCL 48/57. TDs 37341, 39345, 48505, 50648, 51774, 53792, 53893, 54429, 55801, 71-70, 82-116.]

(i) The value stated on the entry at the port of first arrival is not binding on the ultimate consignee making entry at the port of destination and does not relieve the importer of the obligation to show the correct value on entry. (Secs. 484, 552, 46 Stat. 722, as amended, 742; 19 U.S.C. 1484, 1552) [TD 71-70.]

§ 18.12 Entry at port of destination.

(a) Merchandise received under an immediate transportation without appraisement entry may be entered for transportation and exportation or for immediate transportation, or under any other form of entry, and shall be subject to all the conditions pertaining to merchandise entered at a port of first arrival if not more than 1 year has elapsed from the date of original importation. If more than 1 year has elapsed, only an entry for consumption shall be accepted. Such entry shall show the name of the port of first arrival, the transporting carrier, and the number of the immediate transportation entry. (See § 127.2 of this chapter.) [TDs 39514, 48505, 53399, 74-114.]

(b) The right to make entry at the port of destination shall be determined in accordance with the provisions of § 141.11 of this chapter. [TD 73-175.]

(c) When a portion of a shipment is entered at the port of first arrival and the remainder is entered for consumption or warehouse at one or more subsequent ports, the entry at each subsequent port may be made on an extract of the invoice as provided for in § 141.84 of this chapter. [TDs 12157, 38289, 73-175.]

(d) All importations forwarded under immediate transportation without appraisement entries (including carnets) shall be held by the bonded carrier at the port of destination until released by the district director of customs. [TD 71-70, 82-116.]

(e) All merchandise included in an immediate transportation without appraisement entry (including carnets) not entered within 5 days, exclusive of Sundays and holidays, after delivery of the manifest to the district director at the port of destination shall be treated as unclaimed unless the district director, with the concurrence of the carrier, authorizes in writing a longer time. (Secs. 484, 552, 46 Stat. 722, as amended, 742; 19 U.S.C. 1484, 1552) [TDs 30592, 39345, 53336, 53960, 71-70, 82-116.]

Shipment of Baggage in Bond

§ 18.13 Procedure: manifest.

(a) Baggage may be forwarded in bond to another port of entry, or to a Customs station listed in § 101.4 of this chapter, at the request of the passenger, the transportation company, or the agent of either, with the use of a baggage manifest described in paragraph (b) of this section without examination or assessment of duty at the port or station of first arrival. For this purpose, the carrier shall furnish cards of bright red cardboard not less than 2 1/2 by 4 inches in size with the following printed text, for attachment (by wire or cord) to the baggage: [TDs 38535, 48505, 53399, 53960, 53970, 54388, 70-121, 77-241.]

United States Customs

Check No
Baggage in bond:
Carrier
From

to district director of customs

At (destination)
This baggage must be delivered by carrier to the district director at destination. Failure to do so renders the carrier liable to a fine.

(b) A Customs manifest for baggage shipped in bond, Customs Form 7520, shall be prepared in triplicate for each shipment. Two copies of Form 7520 and the related Customs Form 7512-C (duplicate) shall be delivered to the carrier to accompany the baggage and shall be delivered by the carrier to the district director of Customs at the port of destination as a notice of arrival. [TDs 31791, 41639, 48505, 53792, 54388, 71-70.]

(c) Baggage arriving in bond or otherwise at a port on the Atlantic or Pacific coast, destined to a port on the opposite coast, may be laden under Customs supervision, without examination and without being placed in bond, on a vessel proceeding to the opposite coast, provided the vessel will proceed to the opposite coast without stopping at any other port on the first coast. (Secs. 498(a), 552, 46 Stat. 28, as amended, 742; 19 U.S.C. 1498(a), 1552) [TD 47882.]

§ 18.14 Shipment of baggage in transit to foreign countries.

The baggage of any person in transit through the United States from one foreign country to another may be shipped over a bonded route for exportation. Such baggage shall be shipped under the regulations prescribed in § 18.13, except that the card or paster shall be printed on yellow paper and shall read "Baggage in bond for export." See § 123.64 of this chapter for the regulations ap-

(e) The character and extent of the Customs supervision to be exercised in connection with any warehouse or transaction provided for in this part shall be in accordance with § 161.1 of this chapter. (Secs. 555, 556, 46 Stat. 743; 19 U.S.C. 1555, 1556) **[TD 53336.]**

§ 19.5 Customs warehouse officer; compensation of.

(a) The district director shall, when necessary, designate one or more employees to act as Customs warehouse officers of each bonded warehouse or public store.[9] **[TDs 37374(83), 39797.]**

(b) The charge to be made for the services of a Customs warehouse officer or a Customs employee temporarily assigned to act as a Customs warehouse officer at a bonded warehouse on a regular workday during his basic 40-hour workweek shall be computed at a rate per hour equal to 137 percent of the hourly rate of regular pay of the particular employee with an addition equal to any night pay differential actually payable under 5 U.S.C. 5545. The rate per hour equal to 137 percent of the hourly rate of regular pay is computed as follows: **[TDs 51075, 51295, 51387; 51508, 52980, 53399, 66-175, 69-169, 70-261.]**

	Hours	Hours
Gross number of working hours in 52 40-hour weeks		2,080
Less:		
9 legal public holidays—New Years Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, and Christmas Day	72	
Annual Leave—26 days	208	
Sick Leave—13 days	104	384
Net number of working hours		1,696
Gross number of working hours in 52 40-hour weeks		2,080
Working hour equivalent of Government contributions for employee uniform allowance, retirement, life insurance and health benefits computed at 11 1/2 percent of annual rate of pay of employee		239
Equivalent annual working hour charge to Customs appropriation		2,319
Ratio of annual number of working hours charged to Customs appropriation to net number of annual working hours 2319/1696=137 percent		

The charge to be made for the services of a Customs warehouse officer or a Customs employee temporarily assigned to act as a Customs warehouse officer at a bonded warehouse on a holiday or outside his established basic workweek shall be the amount actually payable to the employee for such services under the Federal Employees Pay Act of 1945, as amended (5 U.S.C. 5542(a), 5546), or the Customs overtime laws (19 U.S.C. 267, 1451), or both, as the case may be. When services of a Customs warehouse officer or a Customs employee temporarily assigned to act as a Customs warehouse officer at a bonded warehouse are performed by an intermittent when-actually-employed employee, the charge for such services shall be computed at a rate per hour equal to 108 percent of the hourly rate of the regular pay of such employee to provide for reimbursement of the Government's contribution under the Federal Insurance Contributions Act, as amended (26 U.S.C. 3101, *et seq.*), and employee uniform allowance. The time charged shall include any time within the regular working hours of the employee required for travel between the duty assignment and the place where the employee is regularly employed excluding lunch periods, charged in multiples of 1 hour, any fractional part of an hour to be charged as 1 hour when the services are performed during the regularly scheduled tour of duty of the warehouse officer or between the hours of 8 a.m. and 5 p.m. on weekdays when the officer has no regularly scheduled tour of duty. In no case shall the charge be less than $1. **[TDs 71-287, 74-139.]**

(c) The necessary transportation expenses and any authorized per diem expenses of a Customs employee assigned to perform services at a warehouse at which he is not regularly assigned shall be reimbursed by the warehouse proprietor. **[TDs 51387, 51407, 54876, 55222.]**

(d) When a Customs officer is regularly assigned to duty at more than one warehouse, the charge for his compensation and transportation expenses in going from one bonded warehouse to another shall be equitably apportioned among the respective warehouse proprietors concerned. However, no charge shall be made for transportation expenses when a Customs employee is reporting to as a first assignment, or leaving from as a last assignment, a place where he is regularly assigned to duty. **[TDs 51387, 54486, 54876, 55222.]**

(e) Upon the failure of the warehousemen to pay such charges when due, or to comply with the laws and regulations applicable to bonded warehouses, the district director shall refuse entry of merchandise for such warehouse and report the facts to Headquarters, U.S. Customs Service. (Sec. 5, 36 Stat. 901, as amended, secs. 451, 555, 556, 46 Stat. 715, as amended, 743, as amended, 68A Stat. 416, as amended; 5 U.S.C. 5332, 5504, 5542, 5545, 5546, 6101, 19 U.S.C. 267, 1451, 1555, 1556, 26 U.S.C. 3111); R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624)) **[TDs 54876, 74-139.]**

§ 19.6 Permits; releases.

(a) Upon the receipt of a permit signed by the district director, or other Customs officer designated for such purpose, the Customs warehouse officer shall release the merchandising covered thereby to the warehouse proprietor, unless the proprietor furnishes a delivery order au-

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[9] "* * * Except as otherwise provided in this Act, bonded warehouses shall be used solely for the storage of imported merchandise and shall be placed in charge of a proper officer of the customs, who, together with the proprietor thereof, shall have joint custody of all merchandise stored in the warehouse, and all labor on the merchandise so stored shall be performed by the owner or proprietor of the warehouse, under supervision of the officer of the customs in charge of the same, at the expense of the owner or proprietor. The compensation of such officer of customs and other customs employees appointed to supervise the receipt of merchandise into any such warehouse and deliveries therefrom shall be reimbursed to the Government by the proprietor of such warehouse." (Tariff Act of 1930, sec. 555, 19 U.S.C. 1555)

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thorizing release to some other person, in which case the merchandise shall be released to the person designated by the proprietor.[10] If the permit bears the endorsement provided for in § 144.38(e) of this chapter, release in accordance with the foregoing shall be withheld, subject to the provisions of § 127.14(c) of this chapter, pending the lodging of an order to release on Customs Form 7505-B. **[3 Pet. 292. TDs 16545, 16693, 16896, 17188, 17720, 19242, 19340, 19378, 19813, 53336, 73-175, 74-114.]**

(b) Before delivery is permitted, the permit shall be endorsed to show that storage, cartage, labor, and other charges due the Government have been paid. **[TD 21158. 13 Wallace 29. 3 Woods, 408. 60 Ga. 61. 10 Rich. L. 474.]**

(c) Merchandise covered by a notice of lien filed by the carrier shall not be released until the lien has been satisfied or discharged.[11]

§ 19.7 Expenses of labor and storage.

(a) All merchandise deposited in public stores or in bonded warehouses shall be held liable for the expenses of labor and storage chargeable thereon at the customary rates and for all other expenses accruing upon the goods. **[TDs 22346, 24894, 28306.]**

(b) The rates of storage and labor shall be agreed upon between the importer and the warehouse proprietor, but in case of disagreement the district director may, with the consent of all parties in interest, determine the rates to be charged.

(c) Except in cases provided for by § 141.102(d) of this chapter, when merchandise is stored in a public store under a warehouse entry, general order or otherwise, the charges for storage due the Government shall be paid before the packages are delivered. The charges shall be based upon the existing bonded warehouse tariff of the port for storage and labor. (Secs. 555, 556, 46 Stat. 743; 19 U.S.C. 1555, 1556) **[CIE 395/40. TD 52156, 73-175.]**

§ 19.8 Examination of goods by importer; sampling; repacking; examination of merchandise by prospective purchasers.

Importers may, upon application approved by the district director on Customs Form 3499 and under the supervision of the Customs warehouse officer, examine, sample, and repack[12] or transfer merchandise in bonded warehouse. Where there will be no interference with the orderly conduct of Customs business and no danger to the revenue prospective purchaser may be permitted to examine merchandise in bonded warehouses upon the written request of the owner, importer, consignee, or transferee. **[TDs 46325, 53336.]**

§ 19.9 [Reserved]

§ 19.10 Examination packages.

Merchandise sent from a bonded warehouse to the appraiser's stores for examination shall be returned by the district director to the warehouse for delivery unless the warehouseman shall endorse on the duty-paid permit that the merchandise may be otherwise released. (Secs. 555, 556, 46 Stat. 743; 19 U.S.C. 1555, 1556)

Manipulation in Bonded Warehouses and Elsewhere

§ 19.11 Manipulation in bonded warehouses and elsewhere.

(a) So far as applicable, the general provisions of the regulations governing warehouses bonded for the storage of imported merchandise shall apply to bonded manipulation warehouses and to other designated places of manipulation.[14] **[TDs 41038, 48465, 49658.]**

(b) Merchandise to be manipulated under section 562, Tariff Act of 1930, as amended,[15] may be entered on Customs Form 7502 and sent directly to a storage-manipulation warehouse.

(c) Merchandise entered for warehouse may be transferred to a storage-manipulation warehouse; or merchandise entered for storage-manipulation warehouse may be transferred after manipulation to the storage portion of the same warehouse, to another storage warehouse, or to a manufacturing warehouse of class 6.

(d) The application to manipulate, which shall be filed on Customs Form 3499 with the district director having jurisdiction of the warehouse or other designated place of manipulation, shall describe the contemplated manipulation in sufficient detail to enable the district director to determine whether the imported merchandise is to be cleaned, sorted, repacked, or otherwise changed in condition, but not manufactured, within the meaning of section 562, Tariff Act of 1930, as amended. If the district director is satisfied that the merchandise is to be so manipulated, he may issue a permit on Customs Form 3499, making any necessary modification in such form. Manipulation resulting in a change in condition of the merchandise, which will make it subject to a lower rate of duty or free of duty upon withdrawal for consumption, is not precluded by the provisions of such section 562. **[TDs 47826 (6), 49295, 53792, 54067.]**

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[10] "* * * merchandise in a bonded warehouse shall be released from customs custody only to or upon the order of the proprietor of the warehouse. * * *" (Tariff Act of 1930, sec. 484(j), 19 U.S.C. 1484(j))

The Government will not compel a warehouseman to deliver bonded goods as the interest of the Government is in the collection of the duty on the merchandise or its exportation, and any question of infringement of private rights by the warehouseman must be left to the parties in interest.

[11] Imported goods in bonded warehouses are exempt from taxation or judicial process of any State or subdivision thereof. (See T.D. 50200) (Secs. 484(j), 555, 556, 46 Stat. 723, 743, 19 U.S.C. 1484(j), 1555, 1556)

[12] Repacking shall be considered a manipulation within the purview of sec. 562, Tariff Act of 1930, as amended. (Secs. 555, 556, 562, 46 Stat. 743, 745, as amended, 19 U.S.C. 1555, 1556, 1562)

[14] "* * * Under such regulations as the Secretary of the Treasury shall prescribe, imported merchandise which has been entered and which has remained in continuous customs custody may be manipulated in accordance with the provisions of this section under customs supervision and at the risk and expense of the consignee, but elsewhere than in a bonded warehouse, in cases where neither the protection of the revenue nor the proper conduct of customs business requires that such manipulation be done in a bonded warehouse." (Tariff Act of 1930, sec. 562, as amended; 19 U.S.C. 1562)

[15] "* * * upon permission therefore being granted by the Secretary of the Treasury [Commissioner of Customs], under customs supervision, at the expense of the proprietor, merchandise may be cleaned, sorted, repacked, or otherwise changed in condition, but not manufactured, in bonded warehouses established for that purpose and be withdrawn therefrom for exportation to a foreign country or for shipment to the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Island, or the island of Guam, without payment of the duties, or for consumption, upon payment of the duties accruing thereon, in its condition and quantity, and at its weight, at the time of withdrawal from warehouse, with such additions to or deductions from the final appraised value as may be necessary by reason of change in conditions. * * *" (Tariff Act of 1930, sec. 562, as amended, 19 U.S.C. 1562)

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permission to manipulate wheat under the provisions of section 562, Tariff Act of 1930, as amended, shall be approved only after the concurrence of all interested Federal agencies has been furnished by the applicant.

(b) Where it is found that elevating, screening, blowing, fumigating, or drying of the wheat is essential to keep it in condition, the proprietor of the warehouse shall submit an application in writing to the district director. All such operations shall be performed under Customs supervision adequate to preclude unauthorized access to the wheat. (Secs. 555, 556, 562, 46 Stat. 743, 745, as amended; 19 U.S.C. 1555, 1556, 1562)

§ 19.33 General order; transportation in bond.

The provisions of §§ 19.29 through 19.32 shall be applicable to those parts of any premises in which imported wheat is stored in a general-order status, or stored pending exportation under an entry for exportation or for transportation and exportation. (Secs. 555, 556, 46 Stat. 743; 19 U.S.C. 1555, 1556)

§ 19.34 Customs supervision.

District directors shall exercise such supervision and control over the transactions covered by §§ 19.29 through 19.32 as will insure that there will be no unauthorized access to the imported wheat and no unauthorized mixing, blending, or commingling of such imported wheat. Importers, exporters, proprietors of Customs bonded warehouses, bonded common carriers, and others handling imported wheat in continuous Customs custody shall maintian such records as will enable Customs officers to verify the handling to which the imported wheat has been subjected, and to establish whether there has been a proper accounting to Customs for any increase in the quantity of the wheat or shortages resulting from shrinkage or other factors. These records shall be retained for a period of 5 years from the date of the transaction. District directors shall from time to time request the supervising Customs agent for the district concerned to examine such records of importers, exporters, warehouse proprietors, bonded common carriers, and others handling such wheat in continuous Customs custody as may be deemed necessary to ascertain whether there has been any failure to comply with the applicable Customs laws and regulations. (Sec. 556, 46 Stat. 743, sec. 646, 67 Stat. 520; 19 U.S.C. 1556, 1646a) **[TDs 54442, 79-159.]**

Container Stations

■ § 19.40 Establishment of container stations.

A container station, independent of either the importing carrier or bonded carrier, may be established at any port or portion of a port, or any other area under the jurisdiction of a district director upon the filing of an application therefor and its approval by the district director and the posting, in the sum of $25,000 or such larger amount as the district director shall determine, of a bond in the following format:

Port of ______________________________
No. ______________________________ ______

United States Customs Service

containerized cargo bond (term)

Know All Men By These Presents:

That:[1]——————————, of ——————————, as principal, and[1]——————————of ——————————, and ————————— of ——————————, as sureties, are held and firmly bound unto the United States of America in the sum of —————— dollars ($———), for payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

Witness our hands and seals this ———day of ——————, 19——.

■ Whereas, the above-bounden principal has requested, or will request, permission to remove imported containers, truck trailers, lift vans or vehicles (hereinafter referred to as containers) containing merchandise or baggage (hereinafter referred to as merchandise) from the place of unlading from an importing vessel, vehicle or aircraft of the ______________, for transportation to the ____________terminal(s) at ______________________________________, or to receive such containers at said location from a bonded carrier after transportation in-bond, for a period beginning on the ____day of ________, 19___, and ending on the ____ day of ________, 19___, both days inclusive; and

Whereas, the above-bounden principal has requested, or will request, the assignment of Customs officers or employees to overtime duty at night or on Sunday or a holiday pursuant to the provisions of the Tariff Act of 1930, as amended, the Act of February 13, 1911, as amended, or any other act, or acts and regulations relating thereto, in effect at the time of such duty, on behalf of the herein referred to containers, and the merchandise therein;

Now, Therefore, the Condition of This Obligation is Such That—

(1) If the above-bounden principal shall pay such sums as are chargeable under law and regulations for any services as may be performed for said containers and the merchandise therein by Customs officers or employees and shall promptly pay any duties, charges, exactions, penalties, or other sums found legally due the United States by said principal on account of said containers and the merchandise therein;

(2) And if the above-bounden principal shall exonerate and hold harmless the United States and its officers from, or on account of, any risk, loss, or expense of any kind or description which might occur or be occasioned by reason of the granting of any special license to discharge or take on such merchandise in said containers at night or on Sunday or holiday, as well as from any loss or damage resulting from fraud or negligence on the part of any officer, agent, or other person employed by the above-bounden principal, by reason of the granting of any special license;

(3) And if the principal shall make prompt report of arrival of the containers and the merchandise therein by delivery of the manifest, and permit to transfer, to the district director or other proper customs officer to whom the containers and the merchandise therein are consigned in said manifest or permit to transfer, or by other notice satisfactory to the district director;

(4) And if the said principal shall, in the event of failure to comply with any or all of the conditions referred to in this instrument, pay to the United States as liquidated damages an amount equal to the value of the nondutiable merchandise with respect to which there shall have been default, the damages on any one

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[1] If the principal or surety is a corporation, the name of the State in which incorporated also shall be shown.

shipment not to exceed $500, and shall pay an amount equal to the duties on such dutiable merchandise as may be involved in the default (it being understood and agreed that the amount to be collected in either case shall be based upon the quantity and value of such merchandise in the containers as determined by the district director of Customs, and that the decision of the district director of Customs as to the status of such merchandise whether free or dutiable, together with the rate and amount of duty and tax, shall also be binding on all parties to this obligation; it is further understood and agreed that liability under this instrument attaches for all shortages whether discovered before or after the filing of any form of entry); provided that when delivery shall have been made of any dutiable merchandise in the containers to the ultimate consignee, owner, or other person without permit or release having been issued by the district director or other proper officer of the Customs, the principal shall pay, in addition to the duties on such merchandise a sum equal to 25 per centum of the duties on the merchandise so delivered; and shall pay any internal revenue taxes or other taxes accruing to the United States on the merchandise which is the subject of the default together with all costs, charges, penalties, and expenses caused by the failure to comply with the conditions of this obligation;

(5) And if pursuant to proper permit by the district director of Customs the above-bounden principal shall remove imported containers from the place of unlading from importing vessels, vehicles, or aircraft and land, place, or store any merchandise in the containers in the above-mentioned terminal(s) of the principal or on lighters, piers, landing places, or spaces adjoining thereto, or such other places permitted by the district director on special request made by the principal hereon, or shall receive such containers at said location from a bonded carrier after transportation in-bond, and shall retain such merchandise in the containers at such places until a permit for the removal thereof is granted, and, in the event that any such merchandise in the containers shall be removed therefrom before proper permits have been issued, shall pay all duties, taxes, charges, and exactions accruing on any part of the merchandise in the containers so removed; or in the event the merchandise in the containers so removed is free of duty, shall pay as liquidated damages an amount equal to the value of such merchandise contained in the containers, the damages on any one shipment not to exceed $500 (it being understood and agreed that the amount to be collected in either case shall be based upon the quantity and value of such merchandise in the containers as determined by the district director, and that the decision of the district director as to the status of such merchandise, whether free or dutiable, together with the rate and amount of duties, taxes, charges, and exactions also shall be binding on all parties to this obligation; it is further understood and agreed that liability under this instrument attaches for all shortages whether discovered before or after the filing of any form of entry);

(6) And if the said principal shall pay the necessary expense of such seals, locks, and other proper fastenings as may be prescribed and required by the district director for securing the transportation and safekeeping or storage of such merchandise contained in the containers as may be placed in the custody of the principal, in such terminals, stations, buildings, rooms, warehouses, elevators, safes, trunks, pouches, or other things for, and places of, keeping or storage, as may be authorized and used by the principal for that purpose;

Then this obligation to be void, otherwise to remain in full force and effect.

Signed, sealed, and delivered in the presence of—

(Name) (Address)

(Name) (Address)

[seal]

(Principal)

(Name) (Address)

(Name) (Address)

[seal]

(Surety name and number)

(Name) (Address)

(Name) (Address)

[seal]

(Surety name and number)

(Secs. 450, 499, 623, 46 Stat. 715, as amended, 728, as amended, 759, as amended; 19 U.S.C. 1450, 1499, 1623) **[TD 82-135.]**

§ 19.41 Movement of containerized cargo to a container station.

Containerized cargo may be moved from the place of unlading to a designated container station, or may be received directly at the container station from a bonded carrier after transportation in-bond, before the filing of an entry of merchandise therefor or the permitting thereof (see Subpart A of Part 158 of this chapter) for the purpose of breaking bulk and redelivery of the cargo. In either circumstance, excess loose cargo, as part of containerized cargo, may accompany the container to the container station. (Sec. 499, 46 Stat. 728, as amended; 19 U.S.C. 1499) **[TD 72-68, 82-135.]**

§ 19.42 Application for transfer of merchandise.

The container station operator may file an application for the transfer of a container intact to the station. The application shall be in duplicate in the following or substantially similar format: **[TD 72-68.]**

U.S. Customs Service

Application and permit to transfer containerized cargo to a container station

Date ———————

Application is made to transfer the containers and their contents listed below which arrived on —————— (Carrier) on —— ———(Date) at Pier ——— to the ——————(Container station)

An abstract of the carrier's manifest covering the containers by B/L No., marks, numbers, contents, consignee, etc., is attached hereto.

list of containers by marks and numbers only

(Signature of authorized agent of container station)

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We concur: ——————————————————————
(Signature of agent of importing carrier)

Transfer Record

Delivered to ———————————— (cartman), C.H.L. No. ——— in apparent good order and condition except as noted:

Truck No.	Container numbers	Date	Signature of inspector	Signature of cartman	Received signature container operator

(Sec. 499, 46 Stat. 728, as amended; 19 U.S.C. 1499)

§ 19.43 Filing of application.

The application, listing the containers by marks and numbers, may be filed at the customhouse or with the Customs inspector at the place where the container is unladen, or for merchandise transported in-bond, at the bonded carrier's facility, as designated by the district director. (Sec. 499, 46 Stat. 728, as amended; 19 U.S.C. 1499) **[TD 72-68, 82-135.]**

§ 19.44 Carrier responsibility.

(a) If merchandise is transferred directly to a container station from an importing carrier, the importing carrier shall remain liable under the terms of its bond for the proper safekeeping and delivery of the merchandise until it is formally receipted for by the container station operator.

(b) If merchandise is transferred directly from a bonded carrier's facility to a container station or is delivered directly to the container station by a bonded carrier, the bonded carrier shall remain liable under the terms of its bond for the proper safekeeping and delivery of the merchandise until it is formally receipted for by the container station operator.

(c) In either case under paragraph (a) or (b) of this section, the importing carrier and the bonded carrier, as applicable, shall be responsible for assuring that the provisions of Subpart A, Part 158 of this chapter, relating to quantity determinations, and discrepancy reporting and accountability are followed.

(d) The importing carrier and the bonded carrier, as applicable, shall indicate concurrence in the transfer of the merchandise either by signing the application for transfer or by physically turning the merchandise over to the operator.

(e) The importing carrier and the bonded carrier, as applicable, shall be responsible for ascertaining that the person to whom a container is delivered for transfer to the container station is an authorized representative of the operator.

(f) The importing carrier and the bonded carrier, as applicable, shall furnish an abstract manifest showing the bill of lading number, the marks and numbers of the container, and the usual manifest description for each shipment in the container. (Sec. 448, 46 Stat 714, as amended; 19 U.S.C. 1448) **[TD 72-68, 82-135.]**

§ 19.45 Transfer of merchandise, approval and method.

Approval of the application by the district director shall serve as a permit to transfer the container and its contents to the station. Except when the container station operator is moving the merchandise to his own station by his own vehicle, the merchandise may only be transferred to a container station by a bonded cartman or bonded carrier. The station operator, cartman or carrier shall receipt for the merchandise on both copies of the application. (R.S. 251, as amended, secs. 551, 565, 624, 46 Stat. 742, as amended, 747, as amended, 759; 19 U.S.C. 66, 1551, 1565, 1624) **[TDs 72-68, 74-54.]**

§ 19.46 Employee lists.

A permit shall not be granted to an operator to transfer a container or containers to a container station, if the operator, within 30 calendar days after the date of receipt of a written demand by the district director, does not furnish a written list of names, addresses, social security numbers, and dates and places of birth of persons employed by him in connection with the movement, receipt, storage or delivery of imported merchandise. Having furnished such a list, no new permit shall be issued to an operator who has not within 10 calendar days after the employment of any new personnel employed in connection with the movement, receipt, storage, or delivery of imported merchandise, advised the district director in writing of the names, addresses, social security numbers, and dates and places of birth of such new employees. The operator shall, within 10 calendar days, advise the district director if the employment of any employee is terminated. A person shall not be deemed to be employed by an operator if he is an officer or employee of an independent contractor engaged by the operator to move, receive, store, deliver, or otherwise handle imported merchandise. **[TD 72-68.]**

§ 19.47 Security.

The space to be used for the purposes of breaking bulk and delivering cargo shall be properly secured against access by unauthorized persons, including persons not on the list of current employees furnished to the district director by the container station operator, the principal on the bond, as required by § 19.46. A suitable working and office space for the use of Customs officers and employees performing functions in the area shall also be provided. **[TD 72-68.]**

§ 19.48 Suspension or revocation of the privilege of operating a container station; hearings.

(a) *Grounds for suspension or revocation.* The district director may revoke or suspend the privilege of operating a container station if: **[TDs 72-68, 73-286.]**

(1) The privilege was obtained through fraud or the misstatement of a material fact;

(2) The container station operator refuses or neglects to obey any proper order of a Customs officer or any Customs order, rule, or regulation relative to the operation of a container station;

(3) The container station operator or an officer of a cor-

poration which has been granted the privilege of operating a container station is convicted of a felony, or is convicted of a misdemeanor involving theft, smuggling, or a theft-connected crime;

(4) The container station operator fails to retain merchandise which has been designated for examination;

(5) The container station operator does not provide secure facilities or properly safeguard merchandise within the container station;

(6) The container station operator fails to furnish a current list of names, addresses, and other information required by § 19.46; or

(7) The bond required by § 19.40 is determined to be insufficient in amount or lacking sufficient sureties, and a satisfactory new bond with good and sufficient sureties is not furnished within a reasonable time.

(b) *Notice and appeal.* The district director shall suspend or revoke the privilege of operating a container station by serving notice of the proposed action in writing upon the container station operator. The notice shall be in the form of a statement specifically setting forth the grounds for revocation or suspension of the privilege and shall be final and conclusive upon the container station operator unless he shall file with the district director a written notice of appeal. The container station operator may file a written notice of appeal from the revocation or suspension within 10 days following receipt of the notice of revocation or suspension. The notice of appeal shall be filed in duplicate and shall set forth the response of the container station operator to the statement of the district director. The container station operator, in his notice of appeal, may request a hearing.

(c) *Hearing on appeal.* If a hearing is requested, it shall be held before a hearing officer designated by the Secretary of the Treasury or his designee within 30 days following application therefor. The container station operator shall be notified of the time and place of the hearing at least 5 days prior thereto. The container station operator may be represented by counsel at the revocation or suspension hearing. All testimony in the proceeding shall be subject to cross-examination. A stenographic record of any such proceeding shall be made and a copy thereof shall be delivered to the container station operator. At the conclusion of such proceeding or review of a written appeal, the hearing officer or the district director, as the case may be, shall forthwith transmit all papers and the stenographic record of any hearing, to the Commissioner of Customs, together with his recommendation for final action. Following a hearing and within 10 calendar days after delivery of a copy of the stenographic record, the container station operator may submit to the Commissioner of Customs, in writing, additional views and arguments on the basis of such record. If neither the container station operator nor his attorney appear for a scheduled hearing, the hearing officer shall conclude the hearing and transmit all papers with his recommendation to the Commissioner of Customs. The Commissioner shall thereafter render his decision, in writing, stating his reasons therefor, with respect to the action proposed by the hearing officer or the district director. Such decision shall be transmitted to the district director and served by him on the container station operator. (19 U.S.C. 1499, 1623)

§ 19.49 Entry of containerized merchandise.

Merchandise not entered within the lay order period, or extension thereof, shall be placed in general order. The importing carrier shall issue carrier's certificates for individual shipments in a container. Entries covering merchandise transferred to a container station shall clearly show that the merchandise is at the container station. (Sec. 484, 46 Stat. 722, as amended; 19 U.S.C. 1484) **[TD 72-68.]**

PART 22—DRAWBACK

Articles Manufactured or Produced Wholly or in Part From Imported or Substituted Merchandise

Sec.
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22.6 General drawback rates in effect; approval of drawback statements by Headquarters, U.S. Customs Service and by regional commissioners.
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Flavoring Extracts and Medicinal or Toilet Preparations (Including Perfumery) Manufactured From Domestic Tax-Paid Alcohol.

22.22 Drawback allowance.
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22.24 Manufacturing record.
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Foreign-Build Jet Aircraft Engines Processed in the United States

22.26a Drawback allowance.

Merchandise Exported From Continuous Customs Custody

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Merchandise Transferred to a Foreign-Trade Zone From Customs Territory

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General Regulations Applicable to All Drawback Claims

22.41 Duties subject to drawback.
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22.43 Verification of drawback claims.
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22.45 Signing of documents; powers of attorney.
22.46 Retention of records.

Authority: Secs. 313, 624, 46 Stat. 693, as amended, 759, sec. 101, 76 Stat. 72; 19 U.S.C. 1313, 1624, Gen. Hdnote. 11, Tariff Schedules of the United States, unless otherwise noted.

Source: 28 FR 14778, Dec. 31, 1963, unless otherwise noted.

Articles Manufactured or Produced Wholly or in Part From Imported or Substituted Merchandise

§ 22.1 Drawback allowance.

Drawback of duties shall be allowed as provided for in section 313, Tariff Act of 1930, as amended,[1] on articles manufactured or produced in the United States wholly or in part with the use of imported or substituted merchandise, on meats cured with imported salt, and on vessels and aircraft built and equipped in the United States for

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[1] (a) *Articles made from imported merchandise.* Upon the exportation of articles manufactured or produced in the United States with the use of imported merchandise, the full amount of the duties paid upon the merchandise so used shall be refunded as drawback, less 1 per centum of such duties, except that such duties shall not be so refunded upon the exportation of flour or byproducts produced from wheat imported after ninety days after the date of the enactment of this act * * *

(b) *Substitution for drawback purposes.* If imported duty-paid merchandise and duty free or domestic merchandise of the same kind and quality are used in the manufacture or production of articles within a period not to exceed three years from the receipt of such imported merchandise by the manufacturer or producer of such articles, there shall be allowed upon the exportation of any such articles, notwithstanding the fact that none of the imported merchandise may actually have been used in the manufacture or production of the exported articles, an amount of drawback equal to that which would have been allowable had the merchandise used therein been imported, but the total amount of drawback allowed upon the exportation of such articles, together with the total amount of drawback allowed in respect of such imported merchandise under any other provision of law, shall not exceed 99 per centum of the duty paid on such imported merchandise.

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foreign account and ownership,[2] subject to compliance with the regulations in this part. **[TDs 52417, 52826, 52894, 54231, 54750.]**

§ 22.2 Guantanamo Bay.

Guantanamo Bay Naval Station shall be considered foreign territory for drawback purposes.[3] **[TD 79-276.]**

§ 22.3 Application for establishment of drawback rate.

(a) *General.*—Each manufacturer or producer of articles intended for exportation with benefit of drawback (whether a primary, intermediate, or final manufacturer or producer of the articles, and whether or not the articles are of a character covered by a general drawback rate) shall make application for the establishment of a rate of drawback. The application shall be made on Customs Form 4477 or in a substantially similar form and shall be filed with the district director at any port of entry. When it is desired to export articles before an application in such form can be delivered in the regular course of the mails, a telegraphic application will be accepted provided it shows the name of the manufacturer or producer, the name of the merchandise used, the name of the articles being exported, and the location of the factory at which the articles are manufactured or produced, and provided it is followed promptly by an application in the prescribed form. **[TDs 45185(2), 46412, 48490, 48524, 49639, 52002, 52037, 52894, 79-65.]**

(b) *Vessels or aircraft.*—In the case of a vessel or aircraft on which drawback is to be claimed under section 313(g), Tariff Act of 1930, the application prescribed in paragraph (a) of this section shall be made by the builder of the vessel or aircraft.

(c) *Abandonment of applications.*—The manufacturer or producer may abandon his application for the establishment of a rate of drawback by filing a written statement to that effect with the Customs officer with whom the application was filed. An application shall be considered abandoned if supporting drawback statements are not filed within one year of receipt of the application.

§ 22.4 Identification of imported merchandise and ascertainment of quantities for allowance of drawback; establishment of drawback rates; expiration of drawback rates.

(a) Each manufacturer or producer shall keep records which will establish, as to all articles manufactured or produced for exportation with benefit of drawback, the date or inclusive dates of manufacture or production, the quantity and identity of the imported duty-paid merchandise or of articles manufactured or produced under drawback regulations (referred to hereafter in this part as drawback products) used, the quantity and description of the articles manufactured or produced, and the quantity of waste incurred. If claim for waste is waived, the manufacturer or producer shall keep records which will establish the quantity and identity of the imported duty-paid merchandise or drawback products appearing in the articles manufactured or produced, in which case records need not be kept of either the quantity of waste incurred or of the quantity imported duty-paid merchandise or drawback products used, unless such records are necessary to enable the manufacturer or producer to establish the quantity of imported duty-paid merchandise or drawback products appearing in the articles. When the waste has a value and the manufacturer or producer has not limited his claims to the quantity of imported duty-paid merchandise or drawback, products appearing in the articles, the records shall show the factory value of the imported duty-paid merchandise or drawback products used and the factory value of the waste in order that in the liquidation of the drawback entry the quantity of imported duty-paid merchandise or drawback products used may be reduced by the quantity thereof which the value of the waste will replace. The records of the manufacturer or producer shall also show the quantity, if any, of duty-free or domestic merchandise used when such records are necessary to the determination of the quantity of imported duty-paid merchandise or drawback products used in the manufacture or production of the articles or appearing therein. In cases where two or more products result from the manipulation of the imported duty-paid merchandise, records shall be kept which will show the values of such products at the time of separation. An abstract of the records kept by the manufacturer or producer shall be filed with the drawback entry. **[TDs 48490, 53268, 79-65.]**

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[2] Section 313(g), Tariff Act of 1930, applies only to materials used in the original construction and equipment of the vessels or aircraft and not to materials used for alteration or repair. The term "foreign account and ownership" contemplates only vessels or aircraft built and equipped for the account of an owner or owners residing in a foreign country and having a bona fide intention that the vessel or aircraft shall, when completed, be owned and operated under the flag of a foreign country.

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"(f) *Exportation of meats cured with imported salt.* Upon the exportation of meats, whether packed or smoked, which have been cured in the United States with imported salt, there shall be refunded, upon satisfactory proof that such meats have been cured with imported salt, the duties paid on the salt so used in curing such exported meats, in amounts not less than $100.

"(g) *Materials for construction and equipment of vessels built for foreigners.* The provisions of this section shall apply to materials imported and used in the construction and equipment of vessels built for foreign account and ownership, or for the government of any foreign country, notwithstanding that such vessels may not within the strict meaning of the term be articles exported.

"(h) *Time limitation on exportation.* No drawback shall be allowed under the provisions of this section unless the completed article is exported within five years after importation of the imported merchandise.

"(i) *Regulations.* Allowance of the privileges provided for in this section shall be subject to compliance with such rules and regulations as the Secretary of the Treasury shall prescribe, which may include, but need not be limited to, the fixing of a time limit within which drawback entries or entries for refund under any of the provisions of this section or section 309(b) of this Act shall be filed and completed, and the designation of the person to whom any refund or payment of drawback shall be made.

"(j) *Source of payment.* Any drawback of duties that may be authorized under the provisions of this Act shall be paid from the customs receipts of Puerto Rico, if the duties were originally paid into the Treasury of Puerto Rico." (Tariff Act of 1930, sec. 313, as amended; 19 U.S.C. 1313)

[3] There is no authority of law for the allowance of drawback of customs duty on articles manufactured or produced in the United States and shipped to Puerto Rico, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, the island of Guam, Canton Island, Enderbury Island, Johnston Island, or Palmyra Island. **[TD 79-276.]**

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(d) In the case of merchandise entered for warehouse, Customs custody shall be deemed to cease when the Customs warehouse officer with whom a delivery permit has been lodged has released the merchandise to or upon the order of the proprietor of the warehouse, as provided for in §§ 144.38(e) and 19.6 of this chapter. **[CAD 572. TDs 47462, 48465, 53336, 73-175.]**

(e) Except as stated in paragraph (c) of this section, merchandise examined elsewhere than at the public stores in accordance with the provisions of § 151.7 of this chapter shall be considered released from Customs custody when final examination for purposes of appraisement has been completed. (Sec. 557, 46 Stat. 744, as amended; 19 U.S.C. 1557) **[CD 113. TDs 48739, 49206, 73-175.]**

§ 22.29 Entry and completion thereof.

(a) At least 6 hours before the lading of any merchandise on which drawback is claimed, the importer or whomever he may designate in writing shall file with the district director an entry in duplicate on Customs Form 7541. **[TDs 52894, 54029.]**

(b) When the merchandise is to be transported to another port for exportation, the entry shall be filed in triplicate and shall name the transporting conveyance, the route, and the port of exit. One copy of the entry shall be certified by the district director and forwarded by him to the district director at the port of exit. The merchandise shall be transported by a bonded carrier in accordance with the regulations covering transportation in bond, and manifests shall be prepared and filed in the manner prescribed in § 144.37 of this chapter. **[TDs 54029, 73-175.]**

(c) The regulations in Part 18 as to supervision of lading and certification of exportation of merchandise withdrawn from warehouse for exportation without payment of duty shall be followed so far as applicable.

(d) In order to complete the drawback entry, a bill of lading issued by the proper representative of the exporting carrier and covering the merchandise described in the entry shall be filed within 2 years after the date the merchandise is exported. The bill of lading shall show that the merchandise was shipped by the person making the drawback entry, or shall bear an endorsement of the person in whose name the merchandise was shipped showing that the person making entry is authorized to make it and to receive the drawback. The terms of the bill of lading may limit and define its use by declaring it to be for Customs purposes only and not negotiable. If a copy of the original bill of lading is filed, it shall bear the signature of the person issuing it.

(e) Neither a memorandum copy of the bill of lading issued by the transportation company nor a bill of lading bearing merely the initials of the representative of the transportation company shall be accepted in lieu of the bill of lading described above.

(f) District directors may issue, in memorandum form, extracts from bills of lading filed with drawback entries. **[TD 82-145.]**

(g) When a required bill of lading cannot be produced, the person making the drawback entry may, within the time required for the filing of the bill of lading, request the regional commissioner, through the district director, to accept a statement setting forth the cause of failure to produce the bill of lading and such evidence of exportation and of his right to make the drawback entry as may be available. The request shall be granted if the regional commissioner is satisfied by the evidence submitted that the failure to produce the bill of lading is justified, that the merchandise has been explored, and that the person making the drawback entry has the right to do so. If the regional commissioner is not so satisfied, he shall transmit the request and its accompanying evidence to Headquarters, U.S. Customs Service for final determination. **[TDs 53268, 77-242.]**

(h) A landing certificate, when required, shall be filed within the time prescribed in § 22.17(c). (Sec. 557, 46 Stat. 744, as amended; 19 U.S.C. 1557)

§ 22.30 Ascertainment of drawback.

(a) When the drawback entry has been completed and the bill of lading filed, together with the landing certificate when required, the reports of inspection and lading made, and the clearance of the exporting conveyance established by the record of clearance in the case of direct exportation or by certificate in the case of transportation and exportation, the district director with whom such entry and proofs are lodged shall verify the facts of importation by reference to the records in his office and ascertain the amount of duty paid on the merchandise exported. The drawback found due shall be allowed in accordance with the regulations covering manufactured articles, but there shall be no deduction of 1 percent. **[TDs 52041, 52894.]**

(b) Liquidation of the drawback claim shall proceed as provided in § 22.20 (a), (b), and (c) of this chapter. (Sec. 557, 46 Stat. 744, as amended; 19 U.S.C. 1557) **[TDs 26001, 68-203.]**

Rejected Merchandise

§ 22.31 Drawback allowance.

Upon the exportation of imported merchandise not conforming to sample or specifications or shipped without the consent of the consignee, the duties paid thereon, less 1 percent, shall be refunded as drawback in accordance with the provisions of section 313(c), Tariff Act of 1930,[15] as amended, subject to compliance with the regulations in §§ 22.32 to 22.35. **[TDs 44369, 52894, 53336.]**

§ 22.32 Drawback entry.

(a) An importer of merchandise claimed not to conform to sample or specifications or to have been shipped to him without his consent, who desires to export such merchandise with benefit of drawback, shall file with the district director at the port where the merchandise was entered or at any other port a drawback entry in duplicate on Customs Form 7539, stating the quantity and description of the merchandise and identifying it with the import entry. The drawback entry shall also specify the place where the merchandise is to be deposited in Customs custody. If the district director is of the opinion that the place specified is not suitable for the proper examination of the merchandise and any necessary repacking, he shall require the merchandise to be delivered to a suitable place at the expense of the applicant. **[TDs 53268, 53336, 53399, 54029, 55114.]**

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[15] "Upon the exportation of merchandise not conforming to sample or specifications or shipped without the consent of the consignee upon which the duties have been paid and which have been entered or withdrawn for consumption and, within ninety days after release from customs custody, unless the Secretary authorizes in writing a longer time, returned to customs custody for exportation, the full amount of the duties paid upon such merchandise shall be refunded as drawback, less 1 per centum of such duties." (Tariff Act of 1930, sec. 313(c), as amended; 19 U.S.C. 1313(c))

(b) Each drawback entry covering merchandise not conforming to sample or specifications or shipped without the consent of the consignee shall be executed in the name of the importer of record, unless another person has been named in the import entry as the actual owner and the declaration of such owner has been timely filed, in which case the drawback entry may be filed in the name of either such owner or the importer of record. If the goods are claimed to be not in accordance with sample or specifications, the drawback entry shall be accompanied by a copy of the order for the merchandise, copies of any preliminary correspondence, and the samples or specifications on which the merchandise was ordered, together with a certificate of the actual owner that the sample or specifications submitted are those on which the merchandise was ordered, showing in detail in what manner the merchandise does not conform to sample or specifications. If no written order was placed and no sample or specifications are available, a certificate of the actual owner setting forth the specifications of his order and the method by which they were communicated to the seller may be accepted. If the merchandise was shipped to the importer without his consent, a clear statement of that fact shall be submitted, together with all information in the possession of the importer as to the reason for the shipment. In doubtful cases the district director may decline to allow the claim unless there is produced corroboration by the shipper of the specifications or circumstances, or other evidence sufficient in the opinion of the district director to establish the claim. **[TDs 55114, 55958, 68-203.]**

§ 22.33 Return of merchandise to Customs custody.

(a) Upon receipt of the drawback entry, the district director shall assign a number thereto, by appropriate notation on all copies, approve the place of deposit of the merchandise specified by the person making the entry or designate another place if that one is not deemed suitable, and return the original to the entrant for presentation with the merchandise to the Customs officer at the place of deposit. The merchandise shall be delivered into Customs custody at such place within 90 days after the date on which it was originally released from Customs custody unless, either before or after the return of the merchandise, a longer time is specially authorized by Headquarters, U.S. Customs Service, or by the district director under the authority of this paragraph. The district director, upon written application, may extend the period in those cases where he is satisfied that the importer has been or will be prevented by circumstances beyond his control from returning the merchandise within the 90-day period, and that the importer proposes to return, or has returned, the merchandise within a reasonable time. Applications for extension of time shall be filed with, and acted upon by, the district director at the port where the drawback entry will be filed. If the merchandise is to be exported otherwise than by mail, one copy of the entry shall be returned to the entrant, for resubmission to the district director in accordance with paragraph (e) of this section. A receipt showing the fact and date of such delivery shall be furnished to the applicant if he requests it. If the report of the receiving officer shows that the merchandise was not returned to Customs custody within the time required by law, the drawback shall be denied. **[TDs 44369, 52626, 52894, 53336, 53399, 54009, 54454, 55114.]**

(b) If the merchandise is to be exported through the mails, it shall be deposited with the postmaster for delivery to the district director of Customs at the port where the merchandise was originally entered. The parcel in which the merchandise is packed shall be properly wrapped, stamped, and addressed for mailing to the foreign destination, and shall be enclosed in a wrapper addressed to the district director of Customs at the port where such merchandise was originally entered. A waiver of the right to withdraw the merchandise from the mails, signed by the exporter, shall be affixed, stamped, or written on both the inner and outer wrappers. The outside wrapper shall bear an appropriate notation to the effect that the contents are intended for examination and exportation under section 313(c), Tariff Act of 1930, as amended. If the parcel is to be insured or registered to cover the transportation from the port of original entry to the foreign destination, the exporter shall deposit with the district director of Customs at such port the necessary funds to cover the charges for insurance or registry. **[TDs 48496, 70-89.]**

(c) The drawback entry, fully executed in duplicate on Customs Form 7539, shall accompany or be mailed simultaneously with the parcel, unless such form is not available to the exporter, or unless the information necessary to complete the entry is not available at the time of mailing, in either of which cases the merchandise may be submitted without the entry to the postmaster for delivery to the district director. When the returned merchandise is received by the district director without the related drawback entry, he shall immediately furnish the exporter with the proper number of copies of Form 7539 for prompt execution and return. The dates of the delivery of the merchandise from the post office on importation and the return thereto for exportation shall be considered the dates of release from and return to Customs custody, respectively, within the meaning of section 313 (c), Tariff Act of 1930, as amended. Drawback shall be refused if the merchandise was not returned to custody within 90 days after its release therefrom, or within a longer period authorized by Headquarters, U.S. Customs Service or by the district director pursuant to authority in paragraph (a) of this section. **[TDs 48496, 52464, 53336, 53399, 54009, 54029.]**

(d) The applicant shall submit for the information of the district director the parcel post or registered mail receipt or other evidence from the postmaster at the depositing office showing the date on which the merchandise was returned to the postmaster, together with evidence of the date of delivery of the incoming package from the post office. **[TD 48496.]**

(e) The entrant shall be advised of the approval of his entry and mailing of the merchandise or of the disapproval of his entry. If the entry has been approved and the merchandise is to be exported otherwise than by mail, the

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

Sec.

24.1 Collection of Customs duties, taxes, and other charges.
24.2 Persons authorized to receive Customs collections.
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24.32 Claims; unpaid compensation of deceased employees and death benefits.
24.34 Vouchers; vendors' bills of sale; invoices.
24.36 Refunds of excessive duties, taxes, etc.
24.70 Claims; deceased or incompetent public creditors.
24.71 Claims for personal injury or damages to or loss of privately owned property.
24.72 Claims; set-off.
24.73 Miscellaneous claims.

Authority: R.S. 251, sec. 624, 46 Stat. 759, sec. 501, 65 Stat. 290, sec. 101, 76 Stat. 72; 5 U.S.C. 301, 19 U.S.C. 66, 1624, 31 U.S.C. 483a, Gen. Hdnote. 11, Tariff Schedules of the United States, unless otherwise noted.

Source: 28 FR 14808, Dec. 31, 1963, unless otherwise noted.

§ 24.1 Collection of Customs duties, taxes, and other charges.

(a) Except as provided in paragraph (b) of this section, the following procedure shall be observed in the collection of Customs duties, taxes, and other charges (see sections 111.29(b) and 141.1(b) of this chapter): **[TDs 45344, 51278, 53303, 55642, 82–134.]**

(1) Any form of United States currency or coin legally current at time of acceptance shall be accepted.

(2) Any bank draft, cashier's check, or certified check drawn on a national or state bank or trust company of the United States or a bank in Puerto Rico or any possession of the United States if such draft or checks are acceptable for deposit by a Federal Reserve bank, branch Federal Reserve bank, or other designated depositary shall be accepted.

(3) An uncertified check drawn by an interested party on a national or state bank or trust company of the United States or a bank in Puerto Rico or any possession of the United States if such checks are acceptable for deposit by a Federal Reserve bank, branch Federal Reserve bank, or other designated depositary shall be accepted if there is on file with the district director an entry bond or other bond to secure the payment of the duties, taxes, or other charges, or if a bond has not been filed, the organization or individual drawing and tendering the uncertified check has been approved by the district director to make payment in such manner. In determining whether an uncertified check shall be accepted in the absence of a bond, the district director shall use available credit data obtainable without cost to the Government, such as that furnished by banks, local business firms, better business bureaus, or local credit exchanges, sufficient to satisfy him of the credit standing or reliability of the drawer of the check.

(4) A U.S. Government check endorsed by the payee to the U.S. Customs Service, a domestic traveler's check, or a U.S. postal, bank, express, or telegraph money order shall be accepted. Before accepting this form of payment the Customs cashier or other employee authorized to receive Customs collections shall require such identification in the way of a current driver's license issued by a state of the United States, or a current passport properly authenticated by the Department of State, or a current credit card issued by one of the numerous travel agencies or clubs, or other credit data, etc., from which he can verify the identity and signature of the person tendering such check or money order. **[TD 67–134.]**

(5) The face amount of a bank draft, cashier's check, certified check, or uncertified check tendered in accordance with this paragraph shall not exceed the amount due by more than $1 and any required change is authorized to be made out of any available cash funds on hand.

(6) The face amount of a U.S. Government check, traveler's check, or money order tendered in accordance with this paragraph shall not exceed the amount due by more than $50 and any required change is authorized to be made out of any available cash funds on hand. **[TD 73–103.]**

(b) At piers, terminals, bridges, airports, and other similar places, in addition to the methods of payment prescribed in paragraph (a) of this section, a personal check drawn on a national or state bank or trust company of the United States, shall be accepted by inspectors of Customs and other Customs employees authorized to receive Customs collections in payment of duties, taxes, and other charges on noncommercial importations subject to the identification requirements of subparagraph (4) of paragraph (a) of this section. However, a personal check received under this paragraph and a United States Government check, traveler's check, or money order received under paragraph (a) of this section by such inspectors of Customs and other Customs employees shall be subject to the following conditions: **[TDs 53860, 53959, 55642.]**

(1) Where the amount is less than $100 and the identification requirements of subparagraph (4) of paragraph (a) of this section have been met, the Customs employee accepting the check or money order shall show his name and badge number on the collection voucher and on the reverse side of the check or money order as well as the serial number of the voucher or other form of voucher identification so that the check or money order can be easily associated with the voucher. This information shall be shown immediately above the space where the endorsement stamp will be placed. **[TD 67–134.]**

(2) Where the amount is $100 or more, in addition to the

Customs employee accepting the check or money order shall obtain the approval of the Customs officer in charge who also shall personally verify the identification data and indicate his approval by initialing the collection voucher below the signature of the Customs employee who approved the receipt of the check or money order.

(3) A personal check tendered in accordance with this paragraph shall be accepted only when drawn for the amount of the duties, taxes, and other charges to be paid by such check.

(c) Checks on foreign banks, foreign travelers' checks, and commercial drafts or bills of exchange subject to acceptance by the drawees shall not be accepted. **[TDs 53339, 55642.]**

(d) Checks and other negotiable papers covering duties, taxes, and other Customs charges shall be made payable to the United States Customs Service. (R.S. 3009, 3473, as amended, sec. 1, 36 Stat. 965, as amended, sec. 648, 46 Stat. 762; 19 U.S.C. 197, 198, 1648) **[TD 67-134.]**

§ 24.2 Persons authorized to receive Customs collections.

District directors in charge of ports of entry, Customs cashiers, Customs inspectors, Customs dock tellers, and such other officers and employees as the district director shall designate shall receive Customs collections.

§ 24.3 Bills and accounts; receipts.

(a) Any bill or account for money due the United States shall be rendered by an authorized Customs officer or employee on an official form.

(b) A receipt for the payment of estimated Customs duties shall be provided a payer at the time of payment if he furnishes with his payment an additional copy of the documentation submitted in support of the payment. The appropriate Customs official shall validate the additional copy as paid and return it to the payer. Otherwise, a copy of the document filed by the payer and the payer's cancelled check shall constitute evidence of payment. **[TDs 74-73, 79-221.]**

(c) A copy of a Customs bill validated as paid will not normally be provided a payer. If a bill is paid by check, the copy of the Customs bill identified as "Payer's Copy" and the payer's cancelled check shall constitute evidence of such payment to Customs. Should a payer desire evidence of receipt, both the "U.S. Customs Service Copy" and the "Payer's Copy" of the bill and, in the case of payments by mail, a stamped, self-addressed envelope, shall be submitted. The "Payer's Copy" of the bill shall then be marked paid by the appropriate Customs official and returned to the payer. **[TDs 53339, 53897, 74-73.]**

(d) Every payment which is not made in person shall be accompanied by the original bill or by a communication containing sufficient information to identify the account or accounts to which it is to be applied.

(e) A bill for duties, taxes, or other charges is due and payable upon receipt thereof by the debtor. **[TD 54712.]**

§ 24.4 Optional method for payment of estimated import taxes on alcoholic beverages upon entry, or withdrawal from warehouse, for consumption.

(a) *Application to defer.* An importer, including a transferee of alcoholic beverages in a Customs bonded warehouse who wishes to pay on a semi-monthly basis the estimated import taxes on alcoholic beverages entered, or withdrawn from warehouse, for consumption by him during such a period may apply by letter to the district director of each district in which he wishes to defer payment. If the importer desires the additional privilege of depositing estimated tax payments on an extended deferred basis, it must be specifically requested. The application must identify the ports at which the importer wishes to use the tax deferral procedure. An importer who receives approval from a district director to defer such payments may, however, continue to pay the estimated import taxes due at the time of entry, or withdrawal from warehouse, for consumption. **[TDs 55568, 56510.]**

(b) *Deferred payment periods.* A period shall commence on October 24 and run through October 31, 1965; thereafter the periods shall run from the 1st day of each month through the 15th day of that month, and from the 16th day of each month through the last day of that month. An importer may begin the deferral of payments of estimated tax in a Customs district in the first deferral period beginning after the date of the written approval by the district director of such district. An importer may in such district use the deferred payment system until the district director advises such importer that he is no longer eligible to defer the payment of such taxes. **[TD 55568, 56510.]**

(c) *Content of application and supporting documents.* (1) An importer must state his estimate of the largest amount of taxes to be deferred in any semimonthly period based on the largest amount of import taxes on alcoholic beverages deposited in that district in such a period during the year preceding his application. He must also identify any existing bond or bonds that he has on file in the district and the port or ports for which filed and shall submit in support of his application the approval of the surety on his bond or bonds to the use of the procedure and to the increase of such bond or bonds to such larger amount or amounts as may be found necessary by the district director. He must identify in his application all ports in the district where he intends to file entries or withdrawals from warehouse for consumption for which taxes are to be deferred. **[TD 55568.]**

(2) Each application must include a declaration in substantially the following language:

> I declare that I am not presently barred by a district director in any other district from using the deferred payment procedure for payment of estimated taxes upon imports of alcoholic beverages, and that if I am notified by a district director to such effect I shall advise the district director of all other districts where approval has been given to me to use such procedure.

(d) *Use of deferred payment method.*

(1) The district director will notify the importer, or his authorized agent if requested, of approval and will at the same time notify all ports in his district at which the procedure will be used according to the importer's application. **[TD 55568.]**

(2) An importer who has received approval to make deferred payments retains the option of deferring or depositing the estimated tax on imported alcoholic beverages until the entry or withdrawal is presented to the cashier for payment of estimated duties. At the time the importer presents his entry or withdrawal for consumption to the cashier together with the estimated duty, he must either pay the estimated tax or indicate on the entry or withdrawal that he elects to defer the tax payment. **[TD 67-33.]**

requirements of subparagraph (1) of this paragraph the security for reimbursement of the overtime compensation, unless the compensation is nonreimbursable under the said section 451, or section 53 of the Airport and Airway Development Act of 1970, as amended (49 U.S.C. 1741). Reimbursements of overtime compensation shall be collected by the district director from the applicants for the services. Customs employees shall not receive overtime compensation for services performed on regular tours of duty at night, but no regular tour of duty shall embrace any part of a Sunday or holiday if the services performed are such that extra compensation would be payable if performed at the request of a private interest. Reimbursable overtime services shall not be furnished to an applicant who fails to cooperate with the Customs Service by filing a timely application therefor during regular hours of business when the need for the services can reasonably by foreseen, nor in any case until the maximum probable reimbursement is adequately secured. **[257 US 506; TDs 38290, 39331, 49117, 49658, 53626; 51149, 77-35.]**

(b) *Night, Sunday, and holiday defined.* For the purposes of this section the word "night" shall mean the time between 5 p.m. of any day and 8 a.m. of the following day, or between the corresponding hours at ports or stations where regular hours for the transaction of the general class of Customs business involved other than those from 8 a.m. to 5 p.m. have been established to agree with local prevailing working hours, but shall not include any such time within the 24 hours of a Sunday or holiday. The night hours at the end of the regular workday immediately preceding a Sunday or holiday and the night hours at the beginning of the next regular workday shall be considered for the purposes of this section as parts of a single night. For such purpose the term "holiday" shall include only days on which Customs employees generally are not required to work and which are usually observed as national holidays.[5] The time accounted for as overtime shall be computed on the basis of the regular hours for the performance of the particular work of the assignment, even though such hours differ from the regular working hours of the employee assigned,[5a] but no extra compen-

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[5] See section 101.6(a) of this chapter.

[5a] For example: At a port where the regular hours of business have been fixed at 8 a.m. to 4 p.m. for the inside force and 7 a.m. to 4 p.m. for the outside force, a clerk whose regular working hours are 8 a.m. to 4 p.m. is not entitled to reimbursable extra compensation if assigned to inspectional work from 7 a.m. to 8 a.m. on a week day, since he works within the regular hours for the service to which he is assigned.

Regions		Districts		
No.	Headquarters	Name and headquarters	Area	Ports of entry
		○ San Diego, Calif.	The counties of San Diego and Imperial in the State of California.	SAN DIEGO (T.D. 54741), including the territory described in T.D. 66-229. Andrade (E.O. 4780, Dec. 13, 1927). Calexico. Tecate (E.O. 4780, Dec. 13, 1927).
		Los Angeles, Calif.	That part of the State of California lying south of the northern boundaries of the counties of San Luis Obispo, Kern, and San Bernardino, except the counties of San Diego and Imperial and that part of the State of Nevada comprising Clark County.	LOS ANGELES-LONG BEACH, including territory described in T.D. 78-130. Las Vegas, Nev. the territory described in T.D. 79-74. Port San Luis.
VIII	San Francisco, Calif.	San Francisco, Calif.	That part of the State of California lying north of the northern boundaries of the counties of San Luis Obispo, Kern, and San Bernardino, and the State of Utah and the State of Nevada, except Clark County.	SAN FRANCISCO-OAKLAND, CALIF., including Benecia, Martinez, Richmond, Sacramento, San Jose, and Stockton (T.D. 79-74), all points on San Francisco Bay, and the territory described in E.O. 10042, Mar. 10, 1949 (14 F.R. 1155), T.D. 53738 and T.D. 56020. Eureka, Calif. Fresno, California, including the territory described in T.D. 74-18. Reno, Nev., including the territory described in T.D. 73-56. Salt Lake City, Utah (T.D. 69-76).
		Honolulu, Hawaii.	The State of Hawaii.	HONOLULU (T.D. 53514). Hilo. Kahului. Nawiliwili-Port Allen (E.O. 4385, Feb. 25, 1926), including the territory described in T.D. 56424.
		Portland, Oreg.	The State of Oregon and that part of the State of Washington which embraces the waters of the Columbia River and the north bank of the said river west of long. 119° west.	COLUMBIA RIVER (PORTLAND, ASTORIA, LONGVIEW) (including territory described in T.D. 73-338). Coos Bay, Oreg. (E.O. 4094, Oct. 28, 1924; E.O. 5193, Sept. 14, 1929; E.O. 5445, Sept. 16, 1930; E.O. 9533, Mar. 23, 1945; 10 FR 3173). Newport, Oreg.
		Seattle, Wash.	The State of Washington except that part which embraces the waters of the Columbia River and the north bank of the said river west of long. 119° west.	PUGET SOUND (Seattle, Anacortes, Bellingham, Everett, Friday Harbor, Kenmore Air Harbor, Neah Bay, Olympia, Port Angeles, Port Towsend, Tacoma), including the territory described in T.D. 78-241. ○ Aberdeen, including territory described in T.D. 79-169. Blaine (E.O. 5835, Apr. 13, 1932). Boundary (T.D. 67-65). Danville. Ferry. Frontier (T.D. 67-65). Laurier. Lynden (E.O. 7632, June 15, 1937; 2 FR 1042). Metaline Falls (E.O. 7632, June 15, 1937; 2 FR 1042). Nighthawk. Oroville (E.O. 5206, Oct. 11, 1929). ■ Point Roberts, including the territory described in T.D. 78-272. Spokane. Sumas.

Regions		Districts		
No.	Head-quarters	Name and headquarters	Area	Ports of entry
		Anchorage, Alaska.	The State of Alaska.	ANCHORAGE, ALASKA (T.D. 55295, T.D. 68-50). Alcan, Alaska (T.D. 71-210). Dalton Cache (T.D. 79-74). Fairbanks (E.O. 8064, Mar. 9, 1939; 4 FR 1191). Juneau. Ketchikan, Alaska, including territory described in T.D. 74-100. SITKA, including territory described in T.D. 55609. Skagway. Wrangell, including territory described in T.D. 56420.
		Great Falls, Mont.	The States of Montana, Idaho, and Wyoming.	GREAT FALLS, MONT. Butte, Mont., including the territory described in T.D. 73-121. Del Bonita, Mont., (E.O. 7947, Aug. 9, 1938; 3 FR 1965). Mail: Cut Bank, Mont. Eastport, Idaho. Morgan, Mont. (E.O. 7632, June 15, 1937; 2 FR 1042). Mail: Loring, Mont. Opheim, Mont. (E.O. 7632, June 15, 1937; 2 FR 1042). Piegan, Mont. (E.O. 7632, June 15, 1937; 2 FR 1042). Mail: Babb, Mont. Porthill, Idaho. Raymond, Mont. (E.O. 7632, June 15, 1937; 2 FR 1042). Roosville, Mont. (E.O. 7632, June 15, 1937; 2 FR 1042). Mail: Eureka, Mont. Scobey, Mont. (E.O. 7632, June 15, 1937; 2 FR 1042). Sweetgrass, Mont. Turner, Mont. (E.O. 7632, June 15, 1937; 2 FR 1042). Whitetail, Mont. (E.O. 7632, June 15, 1937; 2 FR 1042). Whitlash, Mont. (E.O. 7632, June 15, 1937; 2 FR 1042).
IX	Chicago, Ill.	Pembina, N. Dak.	The States of North and South Dakota and the counties of Kittson, Roseau, Lake of the Woods, Marshall, Beltrami, Polk, Red Lake, Pennington in the State of Minnesota.	PEMBINA, N. DAK. Ambrose, N. Dak. (E.O. 5835, 13, 1932). Antler, N. Dak. Baudette, Minn. (E.O. 4422, Apr. 19, 1926). Carbury, N. Dak. (E.O. 5137, June 17, 1929). Dunseith, N. Dak. (E.O. 7632, June 15, 1937; 2 FR 1042). Fortuna, N. Dak. (E.O. 7632, June 15, 1937; 2 FR 1042). Hannah, N. Dak. Hansboro, N. Dak. Maida, N. Dak. (E.O. 7632, June 15, 1937; 2 FR 1042). Neche, N. Dak. Noonan, N. Dak. (E.O. 7632, June 15, 1937; 2 FR 1042). Northgate, N. Dak. Noyes, Minn. (E.O. 5835, Apr. 13, 1932). Pinecreek, Minn. (E.O. 7632, June 15, 1937; 2 FR 1042). Portal, N. Dak. Roseau, Minn. (E.O. 7632, June 15, 1937; 2 FR 1042). Sarles, N. Dak. Sherwood, N. Dak. St. John, N. Dak. (E.O. 5835, Apr. 13, 1932). Walhalla, N. Dak. Warroad, Minn. Westhope, N. Dak. (E.O. 4236, June 1, 1925).
		Minneapolis, Minn.	The State of Minnesota except those counties in the Pembina, North Dakota, and Duluth, Minn. districts.	MINNEAPOLIS-ST. PAUL, including the territory described in T.D. 69-15.

Regions		Districts		
No.	Head-quarters	Name and headquarters	Area	Ports of entry
		Duluth, Minn.	The counties of Koochiching, Itaschi, St. Louis, Carlton, Pine, Lake, Cook, Clay, Aitkin, Norman, Wilkin, Ottertail, Becker, Mahnomen, Clearwater, Hubbard, Wadena, Cass, and Crow Wing in the State of Minnesota and the counties of Douglas, Bayfield, Ashland, and Iron in the State of Wisconsin, and the island of Isle Royale in the State of Michigan.	DULUTH, MINN., AND SUPERIOR, WIS., including the territory described in T.D. 55904. Ashland, Wis. Grand Portage, Minn. (T.D. 56073). International Falls-Ranier, Minn., including the territory described in T.D. 66-246.
		Milwaukee, Wis.	The State of Wisconsin, except the counties of Douglas, Bayfield, Ashland, and Iron and the county of Menominee in the State of Michigan.	MILWAUKEE, including the territory described in T.D. 72-105. Green Bay, including the townships of Ashwaubenon, Allouez, Preble, and Howard, and the city of De Pere (T.D. 54597). Manitowoc. Marinette, including Menominee, Mich. Racine, including the city of Kenosha and the townships of Mount Pleasant and Somers (T.D. 54884.) Sheboygan.
		Chicago, Ill.	The State of Illinois lying north of lat. 39° N.; that part of the State of Indiana north of lat. 41° N. and the States of Iowa and Nebraska.	CHICAGO, ILL., including territory described in T.D. 71-121. Des Moines, Iowa, including the territory described in T.D. 75-104. Omaha, Nebr., including the territory described in T.D. 73-228. Peoria, Ill., including the territory described in T.D. 72-130.
		Cleveland, Ohio	The States of Ohio, Kentucky, that part of the State of Indiana lying south of lat. 41° N., and the county of Erie in the State of Pennsylvania.	CLEVELAND, OHIO, including territory described in T.D. 54-734. Akron, Ohio, E.O. 4597, Feb. 25, 1927, including the territory described in T.D. 77-732. Ashtabula, 1 Conneaut, Ohio, including the territory described in T.D. 77-232. Cincinnati, Ohio, including the territory described in T.D. 75-144. Columbus, Ohio T.D. 82-9. Dayton, Ohio, including the territory described in T.D. 76-77. Erie, Pa., including territory described in T.D. 77-5. Evansville, Ind. Indianapolis, Ind. Lawrenceburg, Ind., including Greendale (E.O. 6634, Mar. 7, 1934). Louisville, Ky., including the territory described in T.D. 77-232. Owensboro, Ky., including the territory described in T.D. 80-22. Sandusky, Ohio (T.D. 81-72). Toledo, Ohio, including territory described in T.D. 71-157.
		St. Louis, Mo.	The States of Missouri and Kansas, and that part of the State of Illinois lying south of lat. 39° N.	ST. LOUIS, MO., including the territory described in T.D. 69-224. Kansas City, Mo., including Kansas City, Kans. and North Kansas City, Mo. (E.O. 8528, Aug. 27, 1940) including the territory described in T.D. 67-56. Springfield, Missouri, including all of the territory within Greene and Christian Counties, Missouri (T.D. 82-30). St. Joseph, Mo. Wichita, Kans., including the territory described in T.D. 74-93.

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Regions		Districts		
No.	Headquarters	Name and headquarters	Area	Ports of entry
		Detroit, Mich.	The State of Michigan except the Island of Isle Royale and the county of Menominee, Mich.	DETROIT, including territory described in E.O. 9073, Feb. 25, 1942; 7 FR 1588; and T.D. 53738. Battle Creek, Michigan (T.D. 76–233). Grand Rapids, Michigan (T.D. 77–4). Muskegon (E.O. 8315, Dec. 22, 1939), including territory described in T.D. 56230. Port Huron, including territory described in T.D. 53576. Saginaw-Bay City-Flint (T.D. 79–74). Sault Ste. Marie. (T.D. 79–74).

§ 101.4 Entry and clearance of vessels at Customs stations.

(a) *Entry at Customs station.* A vessel shall not be entered or cleared at a Customs station, or any other place that is not a port of entry, unless entry or clearance is authorized by the district director for the district in which such station or place is located pursuant to the provisions of section 447, Tariff Act of 1930, as amended (19 U.S.C. 1447).

(b) *Authorization to enter.* Authorization to enter or be cleared at a Customs station shall be granted by the district director for the district in which such station or place is located provided the district director is notified in advance of the arrival of the vessel concerned and the following conditions are met:

(1) Such Customs supervision as may be necessary can be provided.

(2) All applicable Customs and navigation laws and regulations are complied with.

(3) The owner, master or agent of a vessel sought to be entered at a Customs station reimburses the Government for the salary and expenses of the Customs officer or employee stationed at or sent to such Customs station or other place which is not a port of entry for services rendered in connection with the entry or clearance of such vessel, and

(4) Except as otherwise provided by these regulations, the Government is reimbursed by the interested parties for the expenses, including any per diem allowed in lieu of subsistence, but not the salary of a Customs officer or employee for services rendered in connection with the entry or delivery of merchandise. **[TDs 73-123, 78-130]**

(c) *Customs stations designated.* The Customs stations and the ports of entry having supervision thereof are listed below: **[TD 78–272, 79–74, 79–232, 82–93, 82–143.]**

District	Customs stations	Port of entry having supervision
Portland, Maine	Bucksport, Maine	Belfast.
	Coburn Gore, Maine	Jackman.
	Easton, Maine	Fort Fairfield.
	Forest City, Maine	Houlton.
	Hamlin, Maine	Van Buren.
	Knoxford Line (Mars Hill).	Bridgewater.
	Monticello, Maine	Houlton.
	Orient, Maine	Do.
St. Albans, Vt.	Beebe Plaine, Vt.	Derby Line.
	Canaan, Vt.	Beecher Falls.
	East Richford, Vt.	Richford.
	Newport, Vt.	Derby Line, Vt.
	North Troy, Vt.	Derby Line, Vt.
	Pittsburg, N.H.	Beecher Falls.
	West Berkshire, Vt.	Richford.
Boston, Mass.	Provincetown, Mass.	Plymouth.
Ogdensburg, N.Y.	Cannons Corners, N.Y.	Mooers.
	Churubusco, N.Y.	Chateaugay.
	Jamieson's Line, N.Y.	Trout River.
Philadelphia, Pa.	Atlantic City, N.J.	Philadelphia.
	Lewes, Del.	Do.
	Port Norris, N.J.	Do.
	Tuckerton, N.J.	Do.
Baltimore, Md.	Salisbury, Md.	Baltimore.
Miami, Fla.	Fort Pierce, Fla.	West Palm Beach.
Mobile, Ala.	Biloxi, Miss.	Mobile.
New Orleans, La.	Galliano, La.	Morgan City.
	Houma, La.	Do.
Houston, Tex.	Muskogee, Okla.	Tulsa.
	Amistad Dam, Tex.	Del Rio.
Laredo, Tex.	Falcon Dam, Tex.	Roma.
	Los Ebanos, Tex.	Rio Grande City Do.
El Paso, Tex.	Antelope Wells, N. Mex. (Mail: Hachita, N. Mex.).	
	Fort Hancock, Tex.	Fabens Columbus.
	Marathon, Tex.	El Paso.
Nogales, Ariz.	Lochiel, Ariz.	Nogales.
	Tuscon, Ariz.	Do.
San Diego, Calif.	Campo, Calif.	Tecate.
Los Angeles, Calif.	Port Hueneme, Calif.	Los Angeles.
San Francisco, Calif.	Monterey, Calif.	San Francisco.

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District	Customs stations	Port of entry having supervision
Anchorage, Alaska	Barrow, Alaska	Fairbanks.
	Dutch Harbor, Alaska.	Anchorage.
	Eagle, Alaska	Alcan.
	Fort Yukon, Alaska.	Fairbanks.
	Haines, Alaska	Dalton Cache.
	Hyder, Alaska	Ketchikan.
	Kaktovik (Barter Island), Alaska.	Fairbanks
	Kenai (Nikiski), Alaska	Anchorage
	Kodiak, Alaska	Anchorage.
	Northway, Alaska	Alcan.
	Pelican, Alaska	Juneau.
	Petersburg, Alaska	Wrangell.
Great Falls, Mont.	Wild Horse, Mont.	Great Falls.
	Willow Creek, Mont.	Do.
Pembina, N. Dak.	Grand Forks, N. Dak.	Pembina.
	Lancaster, Minn.	Noyes,
	Minot, N. Dak., International Airport	Pembina.
	Oak Island, Minn.	Warroad.
Duluth, Minn.	Crane Lake, Minn.	Duluth, Minnesota/ Superior, Wisconsin.
	Ely, Minn.	Grand Portage.
Cleveland, Ohio	Fairport, Ohio	Cleveland.
	Huron, Ohio	Sandusky.
	Lorain, Ohio	Cleveland.
	Marblehead-Lakeside, Ohio	Sandusky.
	Put-in-Bay, Ohio	Do.
Detroit, Mich.	Algonac, Mich.	Port Huron.
	Alpena, Mich.	Saginaw-Bay City.
	Detour, Mich.	Sault Ste. Marie.
	Escanaba, Mich.	Do.
	Grand Haven, Mich.	Muskegon.
	Houghton, Mich.	Sault Ste. Marie.
	Marine City, Mich.	Port Huron.
	Marquette, Mich.	Sault Ste. Marie.
	Roberts Landing, Mich. (Mail Route 1, Aloonac, Mich.).	Port Huron.
	Rogers City, Mich.	Saginaw-Bay City.

(d) *Temporary Customs stations.* Customs stations may be designated for a temporary time only, to provide Customs facilities where needed because of certain large-scale operations. Because these designations change from time to time they are not listed. However, current information as to the existence of such stations in any district may be obtained from the district director.

§ 101.5 Customs preclearance offices in foreign controls.

Listed below are the preclearance offices in foreign countries where United States Customs officers are stationed and the Customs officers under which they function: **[TD 78–275]**

Country	Customs office	Customs officer having supervision
The Bahamas	Freeport	District Director, Miami, Fla.
	Nassau	District Director, Miami, Fla.
Bermuda	Kindley Field	Area Director, Kennedy Airport Area, Jamaica, N.Y.
Canada	Calgary, Alberta	District Director, Great Falls, Mont.
	Montreal, Quebec	District Director, St. Albans, Vt.
	Prince Rupert, British Columbia	District Director, Anchorage, Alaska
	Toronto, Ontario	District Director, Buffalo, N.Y.
	Vancouver, British Columbia	District Director, Seattle Wash.
	Winnipeg, Manitoba	Regional Commissioner, Chicago, Ill.

§ 101.6 Hours of business.

Except as specified in paragraphs (a)–(g) of this section, each Customs office shall be open for the transactions of general Customs business between the hours of 8:30 a.m. and 5 p.m. on all days of the year:

(a) *Saturdays, Sundays and national holidays.* In addition to Saturdays, Sundays, and any other calendar day designated as a holiday by Federal statute or Executive order, Customs offices shall be closed on the following national holidays:

(1) The first day of January.
(2) The third Monday of February.
(3) The last Monday of May.
(4) The fourth day of July.
(5) The first Monday of September.
(6) The second Monday of October.
(7) The eleventh day of November.
(8) The fourth Thursday of November.
(9) The twenty-fifth day of December.

If a holiday falls on Saturday, the day immediately preceding such Saturday will be observed. If a holiday falls on Sunday, the day immediately following such Sunday will be observed. (5 U.S.C. 6103(b)(1)); (E.O. No. 11582, January 1, 1971; 34 FR 2957; 3 CFR Ch. 11)

(b) *Local conditions requiring different hours.* If, because of local conditions, different but equivalent hours are required to maintain adequate service, such hours shall be observed provided the Commissioner of Customs approves them and provided further that a notice of business hours is prominently displayed at the principal entrance and in each public room of the Customs office.

(c) *Fixing of hours.* At each port or station where there is no full-time Customs employee, the appropriate district director shall, with the approval of the regional commis-

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name in each such State must accompany the application. An application for an individual license must be submitted not later than 30 days before the scheduled examination which the applicant wishes to take. **[TDs 74-200, 78-99.]**

(2) *Fee.* The fee to accompany the application for a broker's license shall be $200, except that a refund of $100 will be made to an applicant failing either to appear for or to pass the examination required by § 111.11(a)(4) (see paragraphs (d) and (e) of § 111.13). A check or money order shall be made payable to the United States Customs Service.

(b) *Posting notice of application.* Upon receipt of the application the district director shall post a notice that the application has been filed. The notice shall be posted conspicuously for at least 2 weeks in the customhouse at the headquarters port and at the subports where the applicant proposes to maintain an office. The notice shall give the name and address of the applicant and, if the applicant is a partnership, association, or corporation, the names of the members or officers thereof who are licensed as brokers. The notice shall invite written comments or information regarding the issuance of the license.

(c) *Withdrawal of application.* If the applicant advises before the date of an examination that he wishes to withdraw his application, the application shall be treated as withdrawn and the district director shall refund the application fee to the applicant.

§ 111.13 Examination of applicant for individual license.

(a) *Examination.* The written examination shall be designated to determine the applicant's knowledge of Customs and related laws, regulations, and procedures and his fitness to render valuable service to importers and exporters. The examination will be prepared and graded in Headquarters, U.S. Customs Service. **[TD 76-329.]**

(b) *Date and place of examination.* Examinations will be given at each district office on the first Monday in April and October. The district director shall give the applicant notice of the exact time and place where the examination will be given.

(c) *Special examination.* The Commissioner may authorize a special examination for an applicant when a partnership, association, or corporation has less than two licensed members or officers. He may also authorize a special examination for one who will be authorized to continue the business of an individual broker. Application and a statement of the reasons for the necessity of a special examination shall be filed with the district director in accordance with § 111.12(a).

(d) *Failure to appear for examination.* If the applicant fails to appear for a scheduled examination without notification in advance or explanation of the circumstances which made it impossible or impracticable to give such notification, the district director shall notify him that the application is denied because of failure to appear for examination to establish his qualifications for a license. The district director shall refund to the applicant one-half of the application fee.

(e) *Failure to pass examination.* If the applicant does not obtain a grade of at least 75 percent, the Commissioner will notify him and the district director that the application for a license is denied because of failure to pass the examination. The district director shall refund to the applicant one-half of the application fee.

(f) *Passing grade on examination.* If the applicant obtains a passing grade, the Commissioner will return the application to the district director for further processing of the application.

§ 111.14 Investigation of the applicant.

(a) *Individual license.* If the applicant passes the examination, the district director shall refer the application to the special agent in charge for an investigation and report.

(b) *Partnership, association, or corporation license.* The district director shall immediately refer an initial application for a partnership, association, or corporation license to the special agent in charge for investigation and report. **[TD 82-181.]**

(c) *Scope of investigation.* The investigation shall ascertain facts relevant to the question whether the applicant is qualified and shall cover, but need not be limited to:

(1) The accuracy of the statements made in the application;

(2) The business integrity of the applicant; and

(3) When the applicant is an individual (including a member of a partnership or an officer of an association or corporation), the character and reputation of the applicant.

(d) *Report and return of the application.* The special agent in charge shall return the application with his report and recommendation to the district director who requested the investigation. The district director shall forward the originals of the application and the agent's report to the Commissioner. The district director shall also submit his recommendation for action on the application.

(e) *Additional investigation or examination.* The Commissioner may require further investigation to be conducted if additional facts are deemed necessary to pass upon the application. The Commissioner may also require the applicant (or in the case of a partnership, association, or corporation, one or more of its members or officers) to appear in person before him or before one or more representatives of the Commissioner for the purpose of undergoing additional written or oral examination into the applicant's qualifications for a license.

§ 111.15 Issuance of license.

If the Commissioner finds that the applicant is qualified, he will issue a license. A license for an individual who is a member of a partnership or an officer of an association or corporation will be issued in the name of the individual licensee and not in his capacity as a member or officer of the organization with which he is connected. The license shall be forwarded to the district director, who shall deliver it to the licensee. The district director shall maintain an alphabetical list of brokers licensed in his district which list shall be available to the public.

§ 111.16 Denial of license.

(a) *Notice of denial.* If the Commissioner determines that the application for a license should be denied for any reason, notice of denial shall be given by him to the applicant and to the director of the district in which the application was filed. The notice of denial shall state the reasons why the license was not issued.

(b) *Grounds for denial*. The causes sufficient to justify denial of an application for a license shall include, but need not be limited to:

(1) Any cause which would justify suspension or revocation of the license of a broker under the provisions of § 111.53;

(2) The failure to meet any requirement set forth in § 111.11;

(3) A failure to establish the business integrity and good character of the applicant;

(4) Any willful misstatement of pertinent facts in the application;

(5) Any conduct which would be deemed unfair in commercial transactions by accepted standards;

(6) A reputation imputing to the applicant criminal, dishonest, or unethical conduct, or a record of such conduct.

§ 111.17 Review of the denial of a license.

(a) *By the Commissioner*. Upon the denial of an application for a license, the applicant may file with the Commissioner of Customs, in writing, a request that further opportunity be given for the presentation of information or arguments in support of the application by personal appearance, or in writing, or both. This request must be received by the Commissioner within 60 days of the denial. **[TD 74-272.]**

(b) *By the Secretary*. Upon the decision of the Commissioner affirming the denial of an application for a license, the applicant may file with the Secretary of the Treasury, in writing, a request for such additional review as the Secretary shall deem appropriate. This request must be received by the Secretary within 60 days of the Commissioner's affirmation of the denial of an application for a license. **[TD 74-272.]**

§ 111.18 Reapplication for license.

An applicant who has been denied a license may reapply at any time by complying with the provisions of § 111.12 of this part.

§ 111.19 Licenses for additional districts.

A license authorizes the transaction of Customs business only in the district for which issued. Licenses for additional districts may be obtained by:

(a) Filing with the district director of the district for which a license is desired the application prescribed in § 111.12(a). The applicant may submit a copy of the application for the additional district to the district director in each Customs district where licensed indicating the license number and date of issuance. Upon receipt of the application, the district director of the district for which a license is desired shall follow the procedure set forth in §§ 111.12(b);

(b) Submitting the fee of $200 with the application; and

(c) Establishing that the applicant is prepared and qualified to render efficient service in the additional district. This includes a showing that the licensed members of a partnership or the licensed officers of an association or corporation will exercise responsible supervision and control of the proposed office. The licensed members of a partnership and the licensed officers of an association or corporation are not required to be licensed as individuals in the district for which the partnership, association or corporation is applying for an additional license. An individual licensed as a broker in one district may or may not, at the discretion of the Commissioner be required to take another examination when applying for an additional license (R.S. 251, as amended, secs. 624, 641, 46 Stat. 759, as amended, sec. 501, 65 Stat. 290 (19 U.S.C. 66, 1624, 1641, 31 U.S.C 483(a))) **[TD 82-181.]**

(d) *Recommendation and return of the application by the district director*. Upon receipt of the application, the district director shall immediately notify the district director in each other district in which the applicant is licensed and request comments as to the applicant's qualifications in rendering valuable service to importers and as to the applicant's compliance with the duties and responsibilities of a broker in the other district. The district director in the other district shall timely submit his comments and recommendations to the district director making the request. The district director where the application is made shall forward to the Commissioner (1) a recommendation for action on the application, (2) the recommendation of each other district director, and (3) the original of the application. The district director's recommendation of approval or disapproval of the application shall indicate if an individual applicant resides or has an established office in the additional district or, in the case of a partnership, association, or corporation application, if the requirements of § 111.11 (b) or (c) have been met.

(e) *Investigation*. The Commissioner may require an investigation to be conducted if additional facts are deemed necessary to pass upon the application.

Subpart C—Duties and Responsibilities of Customhouse Brokers

§ 111.21 Record of Transactions.

Each broker shall keep current in a correct, orderly, and itemized manner records of account reflecting all his financial transactions as a broker. He shall keep and maintain on file a copy of each entry made by him with all supporting papers, except those documents he is required to file with Customs, and copies of all his correspondence and other papers relating to his Customs business.

§ 111.22 Additional record of transactions.

(a) *Additional requirement*. In addition to the regular records of account required by section 111.21, each broker shall keep current a record of all his Customs transactions in the format set forth in paragraph (d) of this section, unless an exemption has been granted under the authority of paragraph (b) of this section. If a transaction has been handled only in part by the broker, he shall supply only the information required by this section which relates to his transaction. **[TDs 72-253, 78-138.]**

(b) *Exemption*. If the information required in paragraph (a) is disclosed in other books and records regularly kept and maintained by a broker and if such information is in a systematic, convenient, and readily available form, the district director may in writing exempt the broker from the requirements of paragraph (a) of this section. A written request for exemption shall be addressed to the district director and shall include:

(1) A statement of facts as to the records kept; and

(2) An agreement that, if the exemption is granted, no

change in the system of books and records or the manner of keeping and maintaining them will be made without prior written approval of the district director. **[TD 82-33.]**

(c) *Withdrawal of exemption.* Whenever an audit by a Customs regulatory auditor indicates that a broker to whom an exemption has been granted as provided for in paragraph (b) of this section is not keeping and maintaining records in conformity with the requirements of the paragraph, the exemption of such broker shall be withdrawn by notice in writing from the district director, and such broker shall thereafter keep and maintain records as required by paragraph (a) of this section.

(d) *Prescribed format.* Each licensed customhouse broker shall keep in the format set forth below and in the detailed manner indicated therein, a complete, correct, itemized record revealing all of his financial transactions as a broker. A separate sheet shall be used for the transactions with each of the broker's clients and all entries shall be made immediately after the transactions are accomplished.

Name of broker ______________________ Port of ______________________

Address ______________________ Name of importer or exporter (client) ______________________

Entry Number (1)	Symbol (Footnote) (2)	Date Of Entry 19__ (3)	Amounts Deposited with U S (4)	Amounts Refunded Payee by U S (5)	Amounts Disbursed To Client On Account of Refunds Made By U S Government (6)	Broker's Fee (7)	Bond Premium (8)	Foreign Forwarding Charge (9)	Inland Freight Or Express (10)	Storage or Cartage (11)	Dock and Messenger Service (12)	Public Stores (13)	Warehouse Withdrawal (14)	Miscellaneous (15)	Cash Received From Clients Amount (16)	Date 19__ (17)	Remarks Disposition Of Merchandise if Entry Not Completed (18)

(Note — The following symbols shall be used to show the class of entry: "C", consumption; "W", warehouse; "WWC", warehouse withdrawal for consumption; "WWT", warehouse withdrawal for transportation; "R", re-warehouse; "R & W", re-warehouse and withdrawal for consumption; "IT", immediate transportation; "T & E", transportation and exportation; "D", exportation with benefit of drawback; "EWW", exportation under warehouse withdrawal; "E", exportation; "A", appraisement; "I", informal; "PP", packed packages.)

§ 111.23 Retention of books and papers.

(a) *Period and place of retention.* The books and papers as defined in § 111.1(e) and required by §§ 111.21 and 111.22 to be kept by a broker, other than powers of attorney, shall be retained within the Customs district to which they relate for at least 5 years after the date of entry. Powers of attorney shall be retained until revoked, and revoked powers of attorney and letters or revocation thereof shall be retained for 5 years after the date of revocation. When merchandise is withdrawn from a bonded warehouse, copies of papers relating to the withdrawal shall be retained for 5 years from the date of withdrawal. **[TDs 70-224, 79-159.]**

(b) *Microfilming of books and papers.* A broker, with the approval of the district director for the district in which he is licensed, may record on microfilm any books and papers, other than books of account or powers of attorney, required to be retained under the provisions of paragraph (a) of this section, at any time after the entry to which these books and papers pertain has been liquidated, upon the following conditions: **[TD 72-299.]**

(1) *Approval of microfilming.* The broker shall submit to the district director for the district in which he is licensed a request for approval to microfilm records containing the following certification:

> This certifies that the records for which this approval is requested shall be microfilmed in accordance with the standards set forth in § 111.23(c) of the Customs Regulations (19 CFR 111.23(c)).

(2) *Retention of microfilm records.* The broker shall retain and keep available an original and one reproduction of each microfilm for the period specified by paragraph (a) of this section.

(3) *Use of microfilm records.* The reproduction copy of the original negative microfilm of books and papers may be used for reference purposes. However, the original negative microfilm shall not be used for reference purposes, and adequate measures shall be taken to keep the original negative clean and free from scratches.

(4) *Hard-copy reproductions.* Brokers microfilming their records shall use microfilm equipment having the capability of making direct hard-copy reproductions of the microfilmed records.

(5) *Expense of reproductions.* Brokers shall bear the expense of making hardcopy reproductions of any or all microfilmed records required by the Regional Director, Regulatory Audit, the special agent in charge, or other proper official of the United States Customs Service for the audit or inspection of books and records. **[TD 78-138.]**

(c) *Standards required for microfilming.* Brokers microfilming their records shall maintain the integrity of the original records by insuring that the microfilm copies are true reproductions of the original records and serve the purpose for which such records were created. The following shall be observed in any microfilming: **[TD 72-299.]**

(1) Copies shall contain all significant record detail shown on the original.

(2) Copies of the records, on either roll microfilm or unit microfilm systems, shall be so arranged, identified, and indexed that any individual document or component of the records can be located with reasonable facility.

(3) Any indexes, registers or other finding aids shall be microfilmed at the beginning of the records to which they relate.

(d) *Other methods of reproduction for record retention.* A broker may, with the approval of the district director for the district in which he is licensed, utilize other methods of reproduction, including microfiche, for the reproduction of books and papers, other than books of account or powers of attorney, permitted to be microfilmed under paragraph (b), provided the requirements of paragraphs (b) and (c) of this section are met. **[TD 78-138.]**

§ 111.24 Books and papers confidential.

The books and papers referred to in this part and pertaining to the business of the clients serviced by the broker shall be considered confidential, and the broker shall not disclose their contents or any information connected therewith to any persons other than such clients and the Regional Director, Regulatory Audit, the special agent in charge, or other duly accredited agent of the United States except on subpoena by a court of competent jurisdiction. **[TD 78-138.]**

MICROFILMED FROM
BEST AVAILABLE COPY

§ 111.25 Books and papers shall be available.

During the period of retention, the broker shall maintain his books and papers in such manner that they may readily be examined, and they shall be made available for inspection, copying, reproduction or other official use by Customs regulatory auditors or special agents in accordance with the provisions of §§ 162.1a through 162.1i within the period of retention or within any longer period of time during which they remain in the possession of the broker. **[TDs 78-138, 79-159.]**

§ 111.26 Interference with examination of books and papers.

Except in accordance with the provisions of §§ 162.1a through 162.1i, a broker shall not refuse access to, conceal, remove, or destroy the whole or any part of any book or paper relating to his transactions as a broker which is being sought, or which the broker has reasonable grounds to believe may be sought, by the Treasury Department or any representative thereof, nor shall he otherwise interfere, or attempt to interfere, with any proper and lawful efforts to procure or reproduce information contained in such book or paper. **[TD 79-159.]**

§ 111.27 Audit or inspection of books and papers.

The Regional Director, Regulatory Audit, shall make such audit or inspection of the books and papers required by this subpart to be kept and maintained by a broker as may be necessary to enable the district director and other proper officials of the Treasury Department to determine whether or not the broker is complying with the requirements of this part. Furthermore, the Regional Director, Regulatory Audit, and or the special agent in charge, may inspect such books and papers to obtain information regarding specific Customs transactions for the purpose of protecting importers or the revenue of the United States. The Regional Director, Regulatory Audit, and the special agent in charge conducting an audit or inspection under this section shall submit a report of the findings to the Commissioner and the district director. **[TD 78-138.]**

§ 111.28 Responsible supervision.

(a) *General rule.* Every licensed broker operating as a sole proprietor and every licensed member of a partnership and every licensed officer of an association or corporation which is licensed as a broker shall exercise responsible supervision and control over the transaction of the Customs business of such sole proprietorship, partnership, association, or corporation. **[TD 71-39.]**

(b) *List of employees.* Within 30 days after the date of receipt of a written demand by the district director, a licensed customhouse broker shall submit a list of the names, addresses, social security numbers, and dates and places of birth of persons currently employed. Having furnished such a list, each licensed customhouse broker shall, within 10 days after the employment of any new personnel, advise the district director of the names, addresses, social security numbers, and dates and places of birth of any such employees. If the employment of any such person is terminated, the customhouse broker shall promptly advise the district director. **[TD 71-39.]**

§ 111.29 Diligence in correspondence and paying monies.

■ (a) *Due diligence by broker.* Each broker shall exercise due diligence in making financial settlements, in answering correspondence, and in preparing or assisting in the preparation and filing of documents relating to any matter handled by him as a broker. Funds received by a broker from a client for payment of duty, tax, or other debt or obligation owing to the Government shall be paid to the Government within 30 days from date of receipt or date due, whichever is later. Each broker shall within 60 days account to clients for funds received for them from the Government, or received from a client in excess of the governmental or other charges properly payable in response to the client's business. He shall account to all other persons within 30 days of receipt for all funds advanced by a client for payment of any charges, debts, or obligations due such other persons.

■ (b) *Notice to client of method of payment.* (1) All brokers shall provide their clients with a written notification as follows:

> If you are the importer of record, payment to the broker will not relieve you of liability for Customs charges (duties, taxes, or other debts owed Customs) in the event the charges are not paid by the broker. Therefore, if you pay by check, Customs charges may be paid with a separate check payable to the "U.S. Customs Service" which shall be delivered to Customs by the broker.

(2) Brokers shall provide the information statement in paragraph (b)(1) as follows:

■ (i) On, or attached to, any power of attorney executed on or after September 22, 1982; and

(ii) To each active client annually during the month of February beginning in February 1983, and during each February thereafter. An active client means a client from whom a broker has obtained a power of attorney. **[TD 82-134.]**

§ 111.30 Change of business address, organization, or name; status report.

(a) *Business address.* When a broker changes his business address, he shall immediately give written notice of his new address to the Commissioner and the district director for the district in which the change of address occurs.

(b) *Organization.* A partnership, association, or corporation shall immediately notify the Commissioner and the district director of the districts where licensed of:

(1) The date on which a licensed member or officer who was one of the qualifying members or officers ceases to be a member or officer and the name of the broker who will succeed him as a qualifying member or officer, or

(2) Any change in the Articles of Agreement, Charter, or Articles of Incorporation.

(c) *Name.* A broker who changes his name, or who proposes to operate under a trade or fictitious name in one or more States within the district in which he is licensed and is authorized by State law to do so, shall submit evidence of his authority to use such name. The name shall not be used until the approval of the Commissioner has been received. In the case of a trade or fictitious name, the broker shall affix his own name in conjunction with each signature of the trade or fictitious name when signing Customs documents.

(d) *Status report.* Each customhouse broker shall file a status report with Customs on February 1, 1979, and on February 1 of each third year thereafter. A report received during the month of February will be considered filed timely. The report shall be filed with the Commissioner of Customs, U.S. Customs Service, Attention: Entry, Licensing and Restricted Merchandise Branch, Washington, D.C. 20229. A copy also shall be filed with the District Director of Customs in each district where the broker is licensed to transact Customs business. No form or particular format is required. Each individual broker shall state whether he is actively engaged in transacting business as a customhouse broker. If so, he shall state the name under, and the address at which, his business is conducted (if he is a sole proprietor); or the name and completed, (*b*) it is found to be truly and correctly invoiced, and (*c*) it is determined that its release is not precluded by law or regulation and it is entitled to admission into the commerce of the United States, the bond shall be in an amount equal to the aggregate sum of double the estimated amount of ordinary Customs duty on the merchandise (including any taxes required by law to be treated as duties) plus the estimated amount of any other tax or taxes on the merchandise collectible by the district director.

(iii) *Merchandise unconditionally free of duty.* When the merchandise appears to the satisfaction of the district director to be unconditionally free of duty and not prohibited from admission into the commerce of the United States, the amount of the bond may be in such lesser amount as, in the opinion of the district director, will be sufficient to accomplish the purpose for which the bond is given, but in no case less than $100.

(iv) *Immediate delivery.* When the bond relates to an application for immediate delivery, the amount of the bond shall be fixed in the amount equal to the value of the articles, based on the information furnished in the application, plus the estimated duty (including any taxes required by law to be treated as duties) and the estimated amount of any taxes imposed upon or by reason of importation, as determined at the time of the application.

(2) *Term bond. Customs Form 7553.* Immediate Delivery and Consumption Entry Bond (Term), Customs Form 7553, in the amount of $10,000, or such larger amount as the district director may deem necessary to accomplish the purpose for which the bond is given. This bond shall be taken to cover only entries to be made at a single port and shall not be modified to cover more than one port. **[TD 82-164.]**

(h) *Warehouse Entry Bond. Customs Form 7555.* Warehouse Entry Bond, Customs Form 7555, in an amount equal to the aggregate sum of double the estimated amount of ordinary Customs duty on the merchandise (including any taxes required by law to be treated as duties) plus the estimated amount of any other tax or taxes on the merchandise collectible by the district director. When the bond is to cover merchandise granted a conditional right of entry at a reduced rate of duty, the amount of the bond shall be fixed on the basis of the maximum rate of duty prescribed by the law.

(i) *Bond for Exportation or Transportation or for Transportation and Exportation*—(1) *Single entry bond. Customs Form 7557.* Single entry Bond for Exportation or Transportation or for Transportation and Exportation, Customs Form 7557, in an amount equal to the aggregate sum of double the ordinary Customs duty on the merchandise (including any taxes required by law to be treated as duties plus the estimated amount of any other tax or taxes on the merchandise collectible by the district director.

(2) *Term bond. Customs Form 7559.* Term Bond for Exportation or Transportation or for Transportation and Exportation, Customs Form 7559, in the amount of $10,000, or such larger amount as the district director may deem necessary to afford ample security to the revenue.

(j) *Bond for Articles Entered or Withdrawn from Warehouse Conditionally Free of Duty. Customs Form 7561.* Bond for Articles Entered or Withdrawn from Warehouse Conditionally Free of Duty, Customs Form 7561, in an amount equal to the aggregate sum of double the estimated amount of ordinary Customs duty on the merchandise (including any taxes required by law to be treated as duties) plus the estimated amount of any other tax or taxes on the merchandise collectible by the district director. When the bond is to cover merchandise granted a conditional right of entry at a reduced rate of duty, the amount of the bond shall be fixed on the basis of the maximum rate of duty prescribed by the law.

(k) *Bond for Temporary Importations*—(1) *Single entry. Customs Form 7563.* Bond for Temporary Importations, Customs Form 7563, in an amount equal to double the duties which it is estimated would accrue (or such larger amount as the district director shall state in writing to the entrant, as is necessary to protect the revenue) had all the articles covered by the entry been entered under an ordinary consumption entry, except that in the case of samples solely for use in taking orders, motion-picture advertising films, professional equipment, tools of trade, and repair components for professional equipment and tools of trade, the bond shall be in an amount equal to 110 percent of the estimated duties.

(2) *Term bond. Customs Form 7563-A.* Term Bond for Temporary Importations, Customs Form 7563-A, in such amount of $10,000 or such larger amount as may be fixed by the district director at the port where the bond is filed.

(l) *Bond for articles for exhibition. Customs Form 7565.* Bond for articles for exhibition, Customs Form 7565, in an amount equal to the estimated duties, as determined at the time of entry.

(m) *Vessel, Vehicle, or Aircraft Bond*—(1) *Single entry bond. Customs Form 7567.* Vessel, Vehicle, or Aircraft Bond (Single Entry), Customs Form 7567, in such amount as the district director may deem necessary, but in no case less than $1,000.

(2) *Term bond. Customs Form 7569.* Vessel, Vehicle, or Aircraft Bond (Term), Customs Form 7569, in the amount of $10,000, or such larger amount as may be fixed by the district director at the port where the bond is filed.

(n) *Single entry bond on entry for or withdrawal from manufacturing warehouse. Customs Form 7571.* Bond on entry for or withdrawal from manufacturing warehouse (single entry), Customs Form 7571, in an amount equal to the aggregate sum of double the estimated amount of ordinary Customs duty on the merchandise, as determined at the time of entry (including any taxes required by law to be treated as duties) plus the estimated amount of any other tax or taxes on the merchandise collectible by the district director.

(o) *Single entry bond to produce bill of lading. Customs Form 7581.* Bond to Produce Bill of Lading (Single Entry), Customs Form 7581, in an amount equal to one and one-half times the invoice value.

(p) *Bond for control of instruments of international traffic. Customs Form 7587.* Bond for the Control of Certain Instruments of International Traffic, Customs Form 7587, required by § 10.41a of this chapter in the amount of $10,000 or such larger amount as the district director may deem necessary to afford ample security to the revenue.

(q) [Reserved]

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(r) *Landing bond for alcoholic beverages.* Landing bond, in the form prescribed in T.D. 47886, to land spirits, wines, or other alcoholic liquors in foreign ports, in an amount equal to double the estimated duty. **[TD 76-267.]**

(s) *General term bond for the entry of merchandise, Customs Form 7595.* General Term Bond for Entry of Merchandise, Customs Form 7595, in the amount of $100,000, or such larger amount as may be fixed by the district director at the port where the bond is filed.

(t) *Bond to secure the payment of overtime services*—(1) *Single entry bond, Customs Form 7597.* Single entry bond, Customs Form 7597, in an amount deemed by the district director to be sufficient to secure the payment of overtime services requested by or on behalf of parties in interest.

(2) *Term bond, Customs Form 7599.* Term bond, Customs Form 7599, in an amount deemed by the district director to be sufficient to secure the payment of overtime services requested by or on behalf of parties in interest.

(u) *Superseding bond, Customs Form 7601.* Superseding bond of the actual owner whose declaration has been filed pursuant to section 485(d), Tariff Act of 1930, as amended (19 U.S.C. 1485(d)), to pay increased and additional duties imposed upon or by reason of importation, to redeliver merchandise for marking and other purposes, and to perform all required acts with respect to merchandise not entitled to admission into the commerce of the United States, Customs Form 7601, in an amount equal to the amount of the single-entry bond or the bond charge which it supersedes.

(v) *Bond for conditionally-free withdrawal for supplies of fishing vessels, Customs Form 7603.* Bond for Conditionally-Free Withdrawal of Distilled Spirits (Including Alcohol), Wines, or Beer for Supplies of Fishing Vessels, Customs Form 7603, in an amount equal to the duties and taxes that would have been assessed had the supplies been regularly entered, or withdrawn, for consumption. When the form is used as a term bond, the bond shall be fixed in such larger amount as the district director may deem necessary.

(w) *Consolidated Aircraft Bond, Customs Form 7605.* Consolidated Aircraft Bond, Customs Form 7605, filed with any district director at the option of the carrier, in the amount of $100,000, or such larger amount as may be fixed by the district director.

(x) *Bond for Accelerated Payment of Drawback*—(1) *Single entry bond, Customs Form 7609.* Bond for Accelerated Payment of Drawback (Single Entry), Customs Form 7609, in an amount equal to the amount of accelerated payment to be received on the entry covered.

(2) *Term bond, Customs Form 7611.* Bond for Accelerated Payment of Drawback (Term), Customs Form 7611, in an amount sufficient to cover the maximum amount of accelerated payment to be outstanding at any time during the period of the bond.

(y) *Drawback Export Bond, Customs Form 7613.* Drawback Export Bond, Customs Form 7613, filed by the drawback claimant using the exporter's summary procedure mentioned in § 22.7 of this chapter, in an amount equal to twenty five percent of the drawback claimed on entries filed by the principal (exporter-claimant) during the term of the bond.

(z) *Special rider to existing entry bonds for entry of merchandise found or believed to involve unfair practices or methods of competition in violation of section 337, Tariff Act of 1930, as amended (19 U.S.C. 1337).* (1) A special rider to existing entry bonds for the entry of merchandise found or believed by the U.S. International Trade Commission (the Commission) to involve unfair practices or methods of competition shall be taken under the provisions of section 337(e) or (g)(3), Tariff Act of 1930, as amended (19 U.S.C. 1337(e) or (g)(3)), in an amount determined by the Commission.

(2) The bond rider shall provide for the release of the merchandise pending a final determination of the question of its admissibility, and for its exportation or destruction under Customs supervision if it is determined finally that the merchandise shall be excluded from importation. The bond rider shall be in the following form: **[TD 79-231.]**

RIDER

Entry of merchandise believed to involve unfair practices or methods of competition in violation of section 337, Tariff Act of 1930, as amended (19 U.S.C. 1337)—To be added to Customs forms 7551, 7553, 7595, 7601, and the "General Bond for Smelting and Refining Warehouses."

In addition to any condition of the bond dated ________, in the amount of ________, executed by ________, as principal, and ________, as surety, the principal and surety agree and stipulate the following condition also applies to that bond.

(1) The principal and surety recognize that the U.S. International Trade Commission prohibited entry into the United States of the following merchandise: ________, under the authority of section 337 of the Tariff Act of 1930, as amended.

(2) The principal and surety recognize that the Commission has prohibited entry of that merchandise until the investigation relating thereto is completed, or until its decision that there is a violation of section 337 has become final.

(3) The principal and surety recognize that certain merchandise prohibited from entry by the Commission was, or may be offered for entry into the United States while the Commission's prohibition is in effect.

(4) The principal and surety recognize that the principal desires to obtain a release of that merchandise pending a final determination of the merchandise's admissibility into the United States, as provided under section 337, and for that purpose, the principal and surety execute this stipulation:

If it is finally determined, as provided in section 337 of the Tariff Act of 1930, as amended, to exclude that merchandise from the United States, then, on notification from the district director of Customs, the principal is obligated to export or destroy under Customs supervision the merchandise released under this stipulation within 30 days from the date of the district director's notification.

The principal and surety agree that if the principal defaults on that obligation, the principal and surety shall pay to the district director of Customs an amount as liquidated damages as may be demanded by him under the applicable law and regulations.

Witness our hands and seals this ________ day of ________, 19____.

________________________________(Seal)
(Principal)

________________________________(Seal)
(Surety)

(aa) *Special bond for the clearance of vessel penalized for carrying narcotics.* Special bond for clearance of ves-

PART 114—CARNETS

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Authority: R.S. 251, 77A Stat. 14, secs. 623, 624, 46 Stat. 759, as amended; 19 U.S.C. 66, 1202 (Gen. Hdnote. 11), 1623, 1624.

Source: T.D. 70-134, 35 FR 9261, June 16, 1970, unless otherwise noted.

§ 114.0 Scope.

This part is concerned with the use of international Customs documents known as carnets. It also contains provisions concerning the approval of associations to issue carnets in the United States covering merchandise to be exported and to guarantee carnets issued abroad covering merchandise to be imported. The carnet serves simultaneously as a Customs entry document and as a Customs bond. [TD 70-134.]

Subpart A—General Provisions

§ 114.1 Definitions.

The following are general definitions for the purpose of Part 114:

(a) *Commissioner.* "Commissioner" means the Commissioner of Customs.

(b) *Issuing association.* "Issuing association" means an association approved by the Commissioner for the issue of carnets in the Customs territory of the United States under a Customs Convention to which the United States has acceded.

(c) *Guaranteeing association.* "Guaranteeing association" means an association approved by the Commissioner to guarantee the payment of obligations under carnets covering merchandise entering the Customs territory of the United States under a Customs Convention to which the United States has acceded.

(d) *A.T.A. carnet.* "A.T.A. carnet" (Admission Temporaire—Temporary Admission) means the document reproduced as the Annex to the Customs Convention on the A.T.A. Carnet for the Temporary Admission of Goods (TIAS 6631). [TD 71-70.]

(e) *Reserved* [TD 82-116.]

(f) *TIR carnet.* "TIR carnet" (Transport International Routier) means the document reproduced as Annex 1 to the Customs Convention on the International Transport of Goods under Cover of TIR Carnets (TIAS 6633). [TD 71-70.]

§ 114.2 Customs Conventions.

The regulations in this part relate to carnets provided for in the following Customs Conventions:

(a) Customs Convention on the A.T.A. Carnet for the Temporary Admission of Goods (hereinafter referred to as A.T.A. Convention).

(b) Reserved [TD 82-116.]

(c) Customs Convention on the International Transport of Goods under Cover of TIR Carnets (hereinafter referred to as the TIR Convention). [TD 71-70.]

§ 114.3 Carnets.

(a) *Use.* A carnet issued in conformity with the provisions of a Convention identified in § 114.2 and with the regulations in this part shall serve as an entry document within the scope contemplated by the applicable Convention and as a bond for the performance of acts in compliance with the provisions of such Convention and the Customs statutes and regulations which are involved. Such carnet shall: [TD 71-70.]

(1) Show the period for which it is valid,

(2) Be fully completed in accordance with the provisions of the Convention which provides for its issuance, and

(3) Include an English translation whenever the goods covered by a carnet are described in another language.

(b) *Area of validity.* Carnets are valid in the customs territory of the United States which includes only the States, the District of Columbia, and Puerto Rico. [TD 71-70.]

Subpart B—Issuing and Guaranteeing Associations

§ 114.11 Approval.

(a) *Documents to be furnished.* Before an association may be approved to serve as issuing association or guaranteeing association in the United States with respect to carnets authorized under a Customs Convention to which the United States has acceded, such association shall furnish the Commissioner a written undertaking, in a form satisfactory to the Commissioner, to perform the functions and fulfill the obligations specified in the Convention under which carnets are to be issued or guaranteed. Evidence of affiliation with an appropriate international organization shall also be required if affiliation with such an organization is required by the Convention under which carnets are to be issued or guaranteed. [TD 71-70.]

(b) *Publication of notice of approval.* Notice of the approval of an issuing association or a guaranteeing association with respect to a Customs Convention to which the United States has acceded will be published in the Federal Register by the Commissioner.

§ 114.12 Termination of approval.

(a) *For cause.* The Commissioner may suspend or revoke the approval previously given to any issuing association or guaranteeing association for failure or refusal to comply with the duties, obligations, or requirements set forth in its written undertaking on which the approval was based; in the applicable Customs Convention; or in the customs regulations; or upon termination of the affiliation with an appropriate international organization required by § 114.11(a). Before such suspension or revocation, the Commissioner shall give the association a reasonable opportunity to refute the alleged failure of compliance. [TD 71-70.]

(b) *Withdrawal.* To be relieved of future obligations, an approved guaranteeing association must notify the Commissioner, in writing, not less than 6 months in advance of a specified termination date that it will not guarantee the payment of obligations under carnets accepted by district directors of Customs after the specified date. The receipt of such notice by the Commissioner will in no way affect the responsibility of the guaranteeing association for payment of claims on carnets accepted by district directors before the designated termination date.

(c) *Notice.* Notice of the suspension or revocation of the approval of an issuing association or a guaranteeing association, or of the withdrawal of an approved guaranteeing association, with respect to a Customs Convention to which the United States has acceded will be published in the Federal Register by the Commissioner. [TD 71-70.]

Subpart C—Processing of Carnets

§ 114.21 Acceptance.

A carnet executed in accordance with § 114.3 shall be accepted provided that when the carnet is presented an association for the guaranteeing of such carnets has been approved in accordance with § 114.11 and such approval has not been terminated as provided for in § 114.12.

§ 114.22 Coverage of carnets.

(a) *A.T.A. carnet.* The A.T.A. carnet is acceptable for goods to be temporarily entered, or temporarily entered and transportated, under:

(1) The Customs Convention on the Temporary Importation of Professional Equipment, or

(2) The International Convention to Facilitate the Importation of Commercial Samples and Advertising Material which includes:

(i) Commercial samples, or

(ii) Motion picture advertising films not exceeding 16 mm. consisting essentially of photographs (with or without sound track) showing the nature or operation of products or equipment whose qualities cannot be adequately demonstrated by samples or catalogs. There shall be presented with each carnet covering motion picture advertising films a statement showing how each of the following requirements is met. The films must:

(A) Relate to products or equipment offered for sale or for hire by a person established in the territory of another contracting party;

(B) Be of a kind suitable for exhibition to the public; and

(C) Be imported in a packet which contains not more than one copy of each film and which does not form part of a larger consignment of films.

(b) Reserved [TD 82-116.]

(c) *TIR carnet*—(1) *Use.* The TIR carnet may be accepted at any port of entry for the transport of merchandise in road vehicles or in containers, even if the containers, without being loaded on road vehicles, are carried by other means of transport for part of the journey between the customs offices of departure and destination. The TIR carnet may also be accepted for the transport of "heavy or bulky goods" as defined in Article 1 of the TIR Convention. The TIR carnet covers the transportation of merchandise for customs purposes only. Road vehicles transporting merchandise under cover of a TIR carnet must also comply with all other applicable requirements of Federal and State agencies concerned with the regulations of such vehicles and their personnel. [TD 71-70.]

(2) *Taken on charge.* A TIR carnet is "taken on charge" by Customs when it is accepted as a transportation entry and when the shipment covered thereby is receipted for by the bonded carrier (see §§ 18.1, 18.2, and 18.10(a) of this chapter). Until the carnet is "taken on charge," the guaranteeing association shall have no liability to the United States under the carnet.

(d) *Excess liability.* When the total of duties and taxes on any shipment covered by a carnet exceeds the amount for which the guaranteeing association is liable, the excess constitutes a charge against the carrier's bond. [TD 82-116.]

§ 114.23 Maximum period.

(a) *A.T.A. carnet.* No A.T.A. carnet with a period of validity exceeding 1 year from date of issue shall be accepted. [TD 71-70, 82-116.]

(b) *TIR carnet.* A TIR carnet may be accepted without limitation as to time provided it is initially "taken on charge by a customs administration (United States or foreign) within the period of validity shown on its front cover." [TD 71-70.]

§ 114.24 Additions.

When an A.T.A. carnet has been issued, no extra item shall be added to the list of goods enumerated on the reverse of the cover of the carnet or on any continuation sheet annexed thereto. [TD 82-116.]

§ 114.25 Replacement of carnets.

In the case of destruction, loss, or theft of an A.T.A. carnet while the goods which it covers are in the Customs territory of the United States, the district director of Customs at the port where such goods were imported may, upon request of the association which issued the carnet abroad, accept a replacement document, the validity of which expires on the same date as that of the carnet which it replaces, provided the district director determines that the description of merchandise in the replacement document fully corresponds to the description set forth in the importation voucher from the carnet to be replaced. [TD 82-116.]

§ 114.26 Discharge, nonacceptance, or cancellation of carnets.

(a) *Unconditional discharge.* An A.T.A. carnet shall be discharged unconditionally by the district director of customs when he is satisfied that all merchandise covered thereby is reexported or destroyed. A TIR carnet shall be discharged unconditionally when all merchandise covered thereby has been properly entered, placed in general order, or exported under customs supervision. In all other cases, any discrepancy shall be noted on the appropriate counterfoil, and action shall be taken in accordance with § 10.39 or § 18.6 of this chapter. [TD 71-70, 82-116.]

PART 123—CUSTOMS RELATIONS WITH CANADA AND MEXICO

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Authority: The provisions of this Part 123 issued under R.S. 251, sec. 624, 46 Stat. 759, 77A Stat. 14; 5 U.S.C. 301, 19 U.S.C. 66, 1202 (Gen. Hdnte. 11), 1624, unless otherwise noted.

Source: The provisions of this Part 123 contained in T.D. 70-121, 35 FR 8215, May 26, 1970, unless otherwise noted.

123.0 Scope.

This part contains special regulations pertaining to Customs procedures at the Canadian and Mexican borders. Included are provisions governing report of arrival, manifesting, unlading and lading, instruments of international traffic, shipments in transit through Canada or Mexico or through the United States, commercial traveler's samples transiting the United States or Canada, and baggage arriving from Canada or Mexico including baggage transiting the United States or Canada or Mexico. Aircraft arriving from or departing for Canada or Mexico are governed by the provisions of Part 6 of this chapter. The arrival of vessels of less than 5 net tons by sea and of all vessels 5 net tons or over, and the clearance of all vessels departing for Canada or Mexico are governed by the provisions of Part 4 of this chapter. **[TD 70-121.]**

Subpart A—General Provisions

§ 123.1 Report of arrival from Canada or Mexico and permission to proceed.

(a) *Persons*. Any person arriving otherwise than in a vessel or vehicle from Canada or Mexico, who is importing or bringing in baggage or merchandise with him, shall immediately report his arrival to the Customs officer at the port of entry or customhouse nearest the place at which the boundary was crossed and shall not proceed until permission to proceed is granted.

(b) *Vehicles*. The person in charge of every vehicle arriving in the United States from Canada or Mexico, whether or not the vehicle is carrying passengers, baggage, or merchandise, shall immediately report arrival to the Customs officer at the port of entry or customhouse nearest the place at which the boundary was crossed and shall not proceed until permission to proceed is granted.

(c) *Vessels*—(1) *Less than 5 net tons arriving otherwise than by sea.* The master of every vessel of less than 5 net tons arriving from Canada or Mexico otherwise than by sea, if carrying baggage or other merchandise shall immediately report arrival to the Customs officer at the port of entry or customhouse nearest the point at which the vessel entered the territorial waters of the United States and shall not proceed until permission to proceed is granted.

(2) *Other vessels.* For requirements applicable to vessels of less than 5 net tons arriving by sea, and to vessels of 5 net tons or over, see § § 4.2 and 4.3 of this chapter. (Sec. 459, 46 Stat. 717, as amended; 19 U.S.C. 1459)

§ 123.2 Penalty for failure to report arrival or for proceeding without a permit.

(a) *Vehicles.* Whether or not a vehicle is carrying passengers, baggage, or merchandise, the penalty of $100 imposed by section 460, Tariff Act of 1930, as amended (19 U.S.C. 1460), for failure to report or for proceeding inland without a permit applies.

(b) *Vessels of less than 5 net tons.* The penalty imposed by section 460, Tariff Act of 1930, as amended (19 U.S.C. 1460), for failure to report or for proceeding inland without a permit applies only when such vessels are carrying baggage or merchandise. (Sec. 460, 46 Stat. 717, as amended; 19 U.S.C. 1460)

§ 123.3 Inward foreign manifest required.

(a) *General requirements.* Baggage or other merchandise carried on a vehicle or on a vessel of less than 5 net tons arriving otherwise than by sea from Canada or Mexico shall be listed on a manifest as prescribed by § 123.4. Vessels which are required to make entry under § 4.3 of this chapter because they are arriving by sea or are 5 net tons or over shall have manifests on board as provided in § 4.7(a) of this chapter.

(b) *Exception where in possession of traveler.* When baggage arrives in the actual possession of a traveler, his declaration will be accepted in lieu of a manifest. Merchandise imported by a person otherwise than in a vessel or vehicle need not be covered by a manifest but shall be presented for inspection, and entry shall be made in accordance with the applicable laws and regulations. (Sec. 459, 46 Stat. 717, as amended; 19 U.S.C. 1459)

§ 123.4 Inward foreign manifest forms to be used.

The inward foreign manifest required by § 123.3 for a vehicle or a vessel of less than 5 net tons arriving in the United States from Canada or Mexico otherwise than by sea with baggage or merchandise, shall be on Customs Form 7533, except as provided for shipments in transit in Subparts C, D, E, F, and G of this part, in the following special cases:

(a) For merchandise free of duty entered on Customs Form 7523, the same form may be used as a manifest in lieu of other forms. (See § 143.23 of this chapter.) **[TD 73-175.]**

(b) For dutiable merchandise not exceeding $250 in value entered on Customs Form 5119-A, the same form may be used as a manifest in lieu of other forms. (See § 143.21 of this chapter.) The district director may also allow such merchandise to be entered informally upon the presentation of a commercial invoice which contains the following declaration, signed by the importer or his agent: **[TDs 73-175, 75-105.]**

> I declare that the information on this invoice is accurate to the best of my knowledge and belief: that the invoice quantities are true and correct manifest quantities; and that I have not received and do not know of any invoice other than this one.

(c) For a shipment not exceeding $250 in value consisting of articles of American origin entered free of duty under the provisions of § 10.1(f) of this chapter and imported in a vehicle, Customs Form 3311 used in entering the goods, in duplicate, may be accepted in lieu of a manifest.

(d) For baggage arriving in baggage cars, Customs Form 7533 shall be used. (See Subpart G of this part.) (R.S. 251, as amended, secs. 484, 498, 624, 46 Stat. 722, as amended, 728, as amended, 759 (19 U.S.C. 66, 1484, 1498, 1624)) **[TD 82-145.]**

§ 123.5 Certification and filing of inward foreign manifest.

The manifest listing baggage and other merchandise, certified by the master of the vessel or the person in charge of the vehicle, shall be presented to the Customs officer at the time the report of arrival is made. It shall be filed in the original only, unless additional copies are required in this part.

§ 123.6 Train sheet for arriving railroad trains.

The conductor of a railroad train arriving from Canada or Mexico shall present to the Customs officer at the port of arrival individual car manifests and a train sheet, sometimes called a consist, bridge sheet, or trip sheet, listing each car and showing the car numbers and initials.

§ 123.7 Manifest used as an entry for unconditionally free merchandise value not over $250.

When a shipment not exceeding $250 in value which is unconditionally free of duty and not subject to quota or to internal revenue tax arrives on a vessel of less than 5 net tons arriving otherwise than by sea, the inward foreign manifest on Customs Form 7533 may be presented in duplicate and used as an entry if:

(a) No merchandise for a different entrant is listed on the same page of the manifest,

(b) The country of exportation of the merchandise, its value, and the provision of law under which free entry is claimed are noted thereon, and

(c) Evidence of the right to make entry is furnished as required by § 141.11 of this chapter. (Sec. 498(a), 46 Stat. 728, as amended; 19 U.S.C. 1498(a)) **[TD 73-175.]**

§ 123.8 Permit or special license to unlade or lade a vessel or vehicle.

(a) *Permission to unlade or lade.* Before any passenger or merchandise, including baggage, may be landed or discharged from any vessel of less than 5 net tons arriving from Canada or Mexico by any route, or from a vehicle, permission to unlade shall be obtained from a Customs officer. Permission to unlade at night, on a Sunday or holiday, or to lade at night on a Sunday or holiday merchandise requiring Customs supervision, shall be obtained from the district director of Customs. Permission to unlade is not required for a vessel of less than 5 net tons arriving otherwise than by sea carrying no baggage or other merchandise. For permission to unlade or lade for vessels of 5 net tons or over, see § 4.30 of this chapter.

repairs"), made abroad at the rate at which the repaired article would be dutiable if imported. For the appropriate determination as to whether the locomotive or other railroad equipment should be considered "domestic" or "foreign", see § 123.12(d). (Sec. 14, 67 Stat. 516, 77A Stat. 14; 19 U.S.C. 1202, (Gen. Hdnte. 11), 1322) **[TD 73-73.]**

§ 123.14 Entry of foreign-based trucks, busses, and taxicabs in international traffic.

(a) *Admission without entry or payment of duty.* Trucks, busses, and taxicabs, however owned, which have their principal base of operations in a foreign country and which are engaged in international traffic, arriving with merchandise or passengers destined to points in the United States, or arriving empty or loaded for the purpose of taking out merchandise or passengers, may be admitted without formal entry or the payment of duty. Such vehicles shall not engage in local traffic except as provided in paragraph (c) of this section.

(b) *Deposit of registration by vehicle not on regular trip.* In any case in which a foreign-based truck, bus, or taxicab admitted under this section is not in use on a regularly scheduled trip, the district director may require that the registration card for the vehicle be deposited pending the return of the vehicle for departure to the country from which it arrived, or the district director may take other appropriate measures to assure the proper use and departure of the vehicle.

(c) *Use in local traffic.* Foreign-based trucks, busses, and taxicabs admitted under this section shall not engage in local traffic in the United States unless the vehicle comes within one of the following exceptions:

(1) The vehicle may carry merchandise or passengers between points in the United States while in use on a regularly scheduled trip if such carriage is directly incidental to the international schedule.

(2) A foreign-based truck trailer may carry merchandise between points in the United States on the return trip to the country from which it entered the United States under the same conditions as are prescribed for "other equipment" in § 123.12(a)(2).

(d) *Penalty for improper use.* The use of any vehicle referred to in this section in violation of this section may result in liabilities being incurred under section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592). (Sec. 14, 67 Stat. 516; 19 U.S.C. 1322) **[TD 79-160]**

§ 123.15 Vehicles of foreign origin used between communities of the United States and Canada or Mexico.

Vehicles of foreign origin which are used for commercial purposes between adjoining or neighboring communities of the United States and Canada or Mexico, such as delivery, peddlers', and service trucks, or wagons, are subject to duty on first arrival, but may thereafter be admitted without formal entry or the payment of duty so long as they are continuously employed in such service. (Sec. 14, 67 Stat. 516; 19 U.S.C. 1322)

§ 123.16 Entry of returning trucks, busses, or taxicabs in international traffic.

(a) *Admission without entry or payment of duty.* Trucks, busses, and taxicabs, whether of foreign or domestic origin, taking out merchandise or passengers for hire or leaving empty for the purpose of bringing back merchandise or passengers for hire shall on their return to the United States be admitted without formal entry or the payment of duty upon their identity being established by State registration cards.

(b) *Use in local traffic.* Trucks, busses, and taxicabs in use on regularly scheduled trips in international traffic, which may include the incidental carrying of merchandise or passengers for hire between points in a foreign country, or between points in this country, shall be admitted under this section. However, such vehicles taken abroad for commercial use between points in a foreign country, otherwise than in the course of a regularly scheduled trip in international traffic shall be considered to have been exported and must be regularly entered on return. (Sec. 14, 67 Stat. 516; 19 U.S.C. 1322)

§ 123.17 Foreign repairs to domestic trucks, busses, taxicabs and their equipment.

(a) *Domestic trucks, busses, and taxicabs and their equipment defined.* For the purpose of this section, trucks, busses, and taxicabs and their equipment manufactured in, or regularly imported into the United States, shall be considered "domestic" if not subsequently formally entered and cleared through foreign customs into another country, nor used in foreign local traffic otherwise than as an incident of their return to the United States.

(b) *Report of arrival and payment of duty on repairs.* A report of the first arrival in the United States of domestic trucks, busses, and taxicabs and their equipment after repairs have been made in a foreign country, other than those required to restore such vehicle or equipment to the condition in which it last left the United States ("running repairs"), shall be made by the driver or person in charge of the vehicle promptly, in writing, to the Customs officer at the port of reentry. The report shall state the time and place of arrival and the nature and value of the repairs. Each such vehicle or its equipment when withdrawn from international traffic shall be subject to duty upon the value of the repairs (other than "running repairs") made abroad at the rate at which the repaired article would be dutiable if imported. (Sec. 14, 67 Stat. 516, 77A Stat. 14; 19 U.S.C. 1202 (Gen. Hdnote 11), 1322)

§ 123.18 Equipment and materials for constructing bridges or tunnels between the United States and Canada or Mexico.

(a) *Admission of equipment and materials.* Equipment for use in construction of bridges or tunnels between the United States and Canada or Mexico shall be admitted without entry or the payment of duty. Materials for such use shall be admitted without entry or payment of duty only for installation in the bridge or tunnel proper, and not in the approaches on land at the United States end of such bridge or tunnel.

(b) *Customs supervision.* All articles admitted under paragraph (a) of this section shall be subject to Customs supervision at the expense of the builder until installed, entered, or exported. (Sec. 14, 67 Stat. 516; 19 U.S.C. 1322)

Subpart C—Shipments in Transit Through Canada or Mexico

§ 123.21 Merchandise in transit.

(a) *Status.* Merchandise may be transported from one port to another in the United States through Canada or Mexico in accordance with the regulations in this subpart of Subparts E for trucks transiting Canada, F for commercial traveler's samples, or G for baggage. Merchandise so transported is not subject to treatment as an importation when returned to the United States, and no inward foreign manifest is required for merchandise returned under an in-transit manifest. In-transit merchandise returned to the United States shall be treated as an importation as are shipments made from Canada or Mexico if:

(1) An in-transit manifest is not furnished for the merchandise upon its return to the United States;

(2) The merchandise has been transshipped in foreign territory without Customs supervision when the transshipment required the breaking of Customs seals; or

(3) The Customs inspector finds any of the Customs seals applied to the conveyance or compartment unlocked or missing.

(b) *Use of certain vessels prohibited.* Merchandise shall not be transported from port to port in the United States through Canada or Mexico by vessel in violation of the provisions of section 27, Merchant Marine Act of 1920, as amended (46 U.S.C. 883), or section 588, Tariff Act of 1930, as amended (19 U.S.C. 1588). (See § 4.80 of this chapter.)

(c) *Regulations applicable.* The provisions of this subpart shall govern all merchandise transported from one port to another in the United States through Canada or Mexico under in-transit procedures, except as otherwise provided in this subpart or in Subpart E. for truck shipments transiting Canada, Subpart F for commercial traveler's samples transiting Canada, and Subpart G for baggage transiting Canada or Mexico. (Sec. 554, 46 Stat. 743; 19 U.S.C. 1554)

§ 123.22 In-transit manifest.

(a) *Manifest required.* A manifest in duplicate covering the in-transit merchandise which is to proceed under the provisions of this subpart shall be presented by the carrier to the Customs officer at each port of lading of a vessel, or at the port of exit of a vehicle. Where the merchandise is transported under Customs red in-bond seals and is accompanied by a transportation in-bond manifest, a separate in-transit manifest is not required.

(b) *Additional copies.* In the following cases additional copies of the manifest shall be presented:

(1) When the merchandise is to be transshipped in foreign territory under Customs supervision, a copy of the manifest for each place of transshipment shall be presented.

(2) When a Customs officer requests an extra copy of the manifest as a record of the transaction.

(c) *Manifest forms to be used.* The in-transit manifest forms to be used are:

(1) For trucks, railroad cars or other overland carriers transiting Mexico a manifest on Customs Form 7512–B or 7533–C shall be presented.

(2) For vessels of less than 5 net tons departing and arriving otherwise than by sea, a manifest on Customs Form 7512–B or 7533–C shall be presented. All other vessels are subject to the manifesting requirements contained in § 4.82 of this chapter.

(3) For rail cars transiting Canada, a manifest on Customs Form 7533-C (Canada A4-1/2) shall be presented. For trains which will remain intact while transiting Canadian territory, a consolidated train manifest containing all the information included in the individual car manifests and the train sheet required by § 123.23 may be used in lieu of individual car manifests. For a number of cars which will transit Canada as a group, a consolidated manifest may be used, but a train sheet shall also be presented.

(4) In all other cases where no in-transit manifest form is specified in this subpart, or in Subpart E relating to truck shipments on the Canadian border, Subpart F relating to commercial traveler's samples, and Subpart G relating to baggage, Customs Form 7512–B or 7533–C shall be presented.

(d) *Contents of in-transit manifest.* The information contained in the manifest shall correspond to the information contained in the waybill accompanying the shipment, except that:

(1) The conveyance shall be identified in a suitable manner in the place provided for such identification.

(2) The description of ladings made up of several shipments which are to go forward in a conveyance or compartment sealed with Customs seals shall be "miscellaneous shipments."

(3) When an in-transit rail shipment will enter and reenter Canada in a continuing movement en route to a final destination in the United States, only the final United States port of reentry shall be shown on the manifest. (Sec. 554, 46 Stat. 743; 19 U.S.C. 1554)

§ 123.23 Train sheet for in-transit rail shipments.

Before an in-transit train proceeding under the provisions of this subpart departs from the United States, the carrier shall furnish to the customs officer at the port of exit a train sheet, sometimes called a consist, bridge sheet or trip sheet, listing each car of the train and specifically identifying the in-transit cars, unless a consolidated manifest containing this information has been presented for a train which will remain intact. (Sec. 554, 46 Stat. 743; 19 U.S.C. 1554)

§ 123.24 Sealing of conveyances or compartments.

(a) *Sealing required.* Merchandise in transit proceeding under the provisions of this subpart shall be transported in sealed conveyances or compartments, except that:

(1) Less than load or compartment lots may be forwarded in unsealed conveyances or compartments, without cording and sealing;

(2) The Commissioner of Customs may authorize treatment of full loads or lots in the same manner as less than load or compartment lots;

(3) Live animals identifiable by specific description in the manifest may be transported in the care of an attendant or customs inspector at the expense of the parties in interest, in unsealed conveyances or compartments.

(e) *In-transit manifest.* Movement of the samples from the port of arrival to the port of exit from the United States under this procedure shall be under an in-transit manifest on Customs Form 7520 executed and filed in triplicate by the traveler at the port of arrival in the United States. Descriptions, quantities, and values may be shown thereon by noting "Commercial Samples," the number of corded and sealed containers, and the approximate total value of the samples. When cording and sealing has been waived with the concurrence of a Canadian Customs officer, samples must be identified on the manifest by suitable itemized descriptions and approximate values, or by attaching to the manifest a copy of the list of samples which has been initialed by the Customs officer.

(f) *Presentation of samples and manifest at U.S. port of exit.* The manifest on Customs Form 7520 shall be presented to the Customs officer at the U.S. port of exit, together with the samples covered. If the seals are broken or cording and sealing has been waived, the Customs officer shall verify that there are no irregularities. (Sec. 553, 46 Stat. 742, as amended; 19 U.S.C. 1553)

Subpart G—Baggage

§ 123.61 Baggage arriving in baggage car.

An inward foreign manifest on Customs Form 7533 shall be used for all baggage arriving in baggage cars. **[TD 82-145.]**

§ 123.62 Baggage in possession of traveler.

For baggage arriving in the actual possession of a traveler, his declaration shall be accepted in lieu of an inward foreign manifest. (See § 123.3.) **[TD 73-27.]**

§ 123.63 Examination of baggage from Canada or Mexico.

(a) *Opening vehicle or compartment to examine baggage.* Customs officers shall not unlock a vehicle or compartment thereof for the purpose of examining baggage unless the owner or operator refuses to unlock such vehicle or compartment.

(b) *Inspection of baggage.* Customs officers shall not open baggage for the purpose of making the inspection required by section 461, Tariff Act of 1930 (19 U.S.C. 1461), but shall detain such baggage until its owner or his agent opens or refuses to open it. If the owner or his agent refuses to open the baggage, it shall be opened and examined in accordance with the provisions of section 462, Tariff Act of 1930 (19 U.S.C. 1462), unless a request is received from the owner or his agent to make other proper disposition thereof. (Sec. 461, 462, 46 Stat. 717, 718; 19 U.S.C. 1461, 1462)

An entry summary for consumption, with estimated duties attached, setting forth the quantity desired to be entered, shall be presented. However, the merchandise shall not be released until Customs has determined the quantity entitled to absolute quota status and priority.

(iii) *Quota Proration.*When it is determined that entry summaries for consumption or withdrawals for consumption must be amended to permit only the quantity of tariff-rate and absolute quota merchandise determined to be within the quota, the entry summaries for consumption or withdrawals for consumption must be returned to the importer for adjustment. The time of presentation for quota purposes in that event shall be the same as the time of the initial presentation of the entry summaries for consumption or withdrawals for consumption provided—

(A) An adjusted entry summary for consumption, or withdrawals for consumption, with estimated duties attached, is deposited within 5 working days after Headquarters authorizes release of the merchandise, and

(B) The importer takes delivery of the merchandise within 15 working days after release is authorized. [TD 81-260.]

(2) *Notation on entry papers.*—The appropriate Customs officer shall note the exact date, hour, and minute of presentation on each entry summary for consumption, or withdrawal for consumption, and shall report these facts to Headquarters. [TD 79-221.]

(b) *Closing of the quota.* Except as provided by § 132.12, at the closing of a quota all entries or withdrawals for consumption which have acquired quota status due to priority of presentation shall be entitled to quota benefits. All other entries or withdrawals are without quota status and are not entitled to any quota benefits. All the latter shall be disposed of in accordance with § 132.5.

§ 132.14 Special permits for immediate delivery; entry of merchandise before presenting entry summary for consumption; permits of delivery.

(a) *Effect of issuance of special permit for immediate delivery or filing entry documentation before presentation of entry summary.*

(1) *Requirements for release.*—Quota-class merchandise shall not be released upon filing entry documentation before the presentation of an entry summary for consumption, or a withdrawal for consumption, with estimated duties attached. However, quota-class merchandise may be released under a special permit for immediate delivery in accordance with section 142.21(e) of this chapter.

(2) *Effect of release under immediate delivery.*—Release of quota-class merchandise under a special permit for immediate delivery before presentation of an entry summary for consumption, or a withdrawal for consumption, with estimated duties attached, shall not accord merchandise any quota priority or status or entitle it to any other quota benefit.

(3) *Effect of inadvertent release.*—Inadvertent release under a special permit for immediate delivery, or upon filing entry documentation, before presentation of an entry summary for consumption, or a withdrawal for consumption, with estimated duties attached, shall not accord the merchandise any quota priority or status or entitle it to any other quota benefit.

(4) *Procedures following inadvertent release.*

(i) *Quota nearing fulfillment.*—If quota-class merchandise is released inadvertently under a special permit for immediate delivery, or under entry documentation, before the presentation of an entry summary for consumption, or a withdrawal for consumption, with estimated duties attached, and the quota is nearing fulfillment, the district director—

(A) May demand the return to Customs custody of the released merchandise in accordance with section 141.113 of this chapter,

(B) Shall require the timely presentation of the entry summary for consumption, or a withdrawal for consumption, with the estimated duties attached, and

(C) May assess liquidated damages under the entry bond in an amount equal to the value of the merchandise, plus estimated duties (computed at the over-quota rate for tariff-rate quota merchandise), if the merchandise is (1) released before presentation of an entry summary for consumption or a withdrawal for consumption, with estimated duties attached; (2) the merchandise is not returned to Customs custody within 30 days from the date of demand for redelivery; or (3) the entry summary for consumption, or the withdrawal for consumption, with estimated duties attached, is not presented timely.

(D) The district director may cancel the claim for liquidated damages if he is satisfied by the evidence that release was due to causes wholly beyond the control of the importer, that no act or omission on the part of the importer formed the basis for the release, and that there was no intent on the part of the importer to evade any law or regulation. The district director also may cancel the claim for liquidated damages if the merchandise is redelivered to Customs custody within 30 days from the date of the demand, or if the entry summary for consumption, or withdrawal for consumption, with estimated duties attached, is presented timely.

(ii) *Quota not nearing fulfillment.*—If quota-class merchandise is released inadvertently under a special permit for immediate delivery, or under entry documentation, before the presentation of an entry summary for consumption, or a withdrawal for consumption, with estimated duties attached, and the quota is not nearing fulfillment, the district director—

(A) Shall require the timely presentation of the entry summary for consumption, or a withdrawal for consumption, with estimated duties attached, and

(B) May assess liquidated damages under the entry bond in an amount equal to the value of the merchandise, plus estimated duties (computed at the over-quota rate for tariff-rate quota merchandise), if the merchandise is (1) released before presentation of an entry summary for consumption, or a withdrawal for consumption, with estimated duties attached; or (2) if the entry summary for consumption, or the withdrawal for consumption with estimated duties attached, is not presented timely.

(C) The district director may cancel the claim for liquidated damages if he is satisfied by the evidence that the release was due to causes wholly beyond the control of the importer, that no act or omission on the part of the importer formed the basis for release, and that there was no intent on the part of the importer to evade any law or regulation. The district director also may cancel the claim for liquidated damages if the entry summary for consumption, or withdrawal for consumption, with estimated duties attached, is presented timely.

(b) *Permit of delivery.*—(1) *Effect of filing.*—The issuance of a permit of delivery shall not accord the merchandise any quota priority or status nor entitle it to any other quota benefit.

(2) *Time of issuance.*—(i) *Absolute quota merchandise.*—A permit of delivery for merchandise subject to an absolute quota shall not be issued before a determination of the quota status of the merchandise.

(ii) *Tariff-rate quota merchandise.*—A permit delivery for merchandise subject to a tariff-rate quota shall not be issued before a determination of the quota status of the merchandise unless estimated duties are deposited at the over-quota rate of duty. [TD 79-221.]

§ 132.15 Withdrawal from warehouse prior to opening of quota.

Merchandise entered for warehouse for which a withdrawal for consumption has been made in the manner prescribed in § 141.68(c) of this chapter prior to the opening of any quota period, may not be accorded any quota benefit which may become effective after the time of presentation of such withdrawal, even though the permit of delivery for the withdrawn merchandise is not delivered to the Customs warehouse officer until after the effective date of the quota benefit. [TD 79-221.]

Subpart C—Mail Importation of Absolute Quota Merchandise

§ 132.21 Regulations applicable.

In addition to the regulations applicable to all mail importations (see Part 145 of this chapter), the regulations in this subpart shall apply to mail importations of absolute quota merchandise.

§ 132.22 When quota is filled.

Any packages containing merchandise subject to an absolute quota which is filled shall be returned to the postmaster for return to the sender immediately as undeliverable mail. The addressee will be notified on Customs Form 3509 or in any other appropriate manner that entry has been denied because the quota is filled.

§ 132.23 Partial release procedure.

(a) *Notification of quota restrictions.* If because of quota restrictions, a mail importation cannot be released, the district director at the port of destination shall notify the addressee on Customs Form 3509 of the procedure required by paragraph (b) of this section, and shall inform the addressee that upon return of the Acknowledgement of Delivery by Postal Service, the packages admissible under the absolute quota will be forwarded to him and the restricted packages will be returned to the sender as inadmissible. The district director may at his discretion hold packages if it appears that the absolute quota will reopen in less than 30 days.

(b) *Acknowledgement of delivery.* An Acknowledgement of Delivery by Postal Service shall be sent to the addressee. He shall be advised that if he desires to secure release of less than the total number of packages of the merchandise, the Acknowledgement of Delivery by Postal Service must be signed by him and returned to the district director. Such Acknowledgment of Delivery by Postal Service shall be in the following form:

Acknowledgment of Delivery by Postal Service

In consideration of the fact that certain articles in a mail importation consisting of ———————— (state number) packages mailed to me by ———————— (name of sender) of ———————— (address) on ———————— (date of mailing), are subject to quota restrictions under which only a portion of such articles may be admitted to entry at one time, and the Postal Service permits no division of the importation before delivery thereof, and since I am desirous of receiving the packages of such importation which are admissible to entry under the quota administered by the United States Customs, I hereby agree and acknowledge that delivery of the package or packages to the United States Customs shall be regarded as delivery by the Postal Service to me.

————————————
(Signature of addressee)

(c) *Agreement to less than full delivery.* If, in any case, the sender of a mail package has indicated his agreement to the delivery of less than the entire importation at one time, an Acknowledgment of Delivery by Postal Service need not be secured from the addressee.

(d) *Deposit required.* If a portion of a mail shipment may be released, the district director may require a deposit of an amount sufficient to defray the expenses of repacking merchandise for shipment by mail to the addressee. The shipment shall be under Government frank without new postage.

§ 132.24 Entry.

Unless a formal entry or entry by appraisement is required, a mail entry on Customs Form 3419 shall be issued and forwarded with the package to the postmaster for delivery to the addressee and collection of any duties in the same manner as for any other mail package subject to Customs treatment.

§ 132.25 Undeliverable shipment.

If within a reasonable time, but not to exceed 30 days, the addressee fails to indicate to the district director an intention to receive delivery of the packages or a portion thereof in accordance with the notice on Customs Form 3509 which was sent to him by the district director, the importation shall be treated in the same manner as other undeliverable mail.

PART 141—ENTRY OF MERCHANDISE

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Authority: R.S. 251, as amended, secs. 448, 484, 624, 46 Stat. 714, as amended, 722, as amended, 759; 19 U.S.C. 66, 1448, 1484, 1624. Subpart B also issued under sec. 483, 46 Stat. 721; 19 U.S.C. 1483. Subpart F also issued under sec. 481, 46 Stat. 719; 19 U.S.C. 1481. Subpart G also issued under sec. 505, 46 Stat. 732, as amended; 19 U.S.C. 1505. Additional authority and statutes interpreted or applied are cited in the text or following the sections affected.

Source: T. D. 73-175, 38 FR 17447, July 2, 1973, unless otherwise noted.

§ 141.0 Scope.

This part sets forth general requirements and procedures for the entry of imported merchandise, except entries under carnet, and entries for transportation in bond or exportation, for foreign-trade zones, or for trade fairs, which are covered in Parts 114, 18, 146, and 147 of this chapter. More specific requirements and procedures in addition to those in this part are set forth in Parts 143, 144, and 145 of this chapter for consumption, appraisement and informal entries, for warehouse entries, and for mail entries. **[TD 73-175.]**

§ 141.0a Definitions.

Unless the context requires otherwise or a different definition is prescribed, the following terms shall have the meanings indicated when used in connection with the entry of merchandise:

(a) *Entry.*—"Entry" means that documentation required by section 142.3 of this chapter to be filed with the appropriate Customs officer to secure the release of imported merchandise from Customs custody, or the act of filing that documentation.

(b) *Entry Summary.*—"Entry summary" means any other documentation necessary to enable Customs to assess duties, and collect statistics on imported merchandise, and determine whether other requirements of law or regulation are met.

(c) *Submission.*—"Submission" means the voluntary delivery to the appropriate Customs officer of the entry summary documentation for preliminary review or of entry documentation for other purposes.

(d) *Filing.*—"Filing" means:

(1) The delivery to Customs of the entry documentation required by section 484(a), Tariff Act of 1930, as amended (19 U.S.C. 1484(a)), to obtain the release of merchandise, or

(2) The delivery to Customs, together with the deposit of estimated duties, of the entry summary documentation required to assess duties, collect statistics, and determine whether other requirements of law and regulation are met, or

(3) The delivery to Customs, together with the deposit of estimated duties, of the entry summary documentation which shall serve as both the entry and the entry summary.

(e) *Presentation.* "Presentation" is used only in connection with quota-class merchandise and is defined in § 132.1(d) of this chapter.

(f) *Entered for consumption.*—"Entered for consumption" means that an entry summary for consumption has been filed with Customs in proper form, with estimated duties attached.

(g) *Entered for warehouse.*—"Entered for warehouse" means that an entry summary for warehouse has been filed with Customs in proper form.

(h) *Entered under a temporary importation bond.*—"Entered under a temporary importation bond" means that an entry summary supporting a temporary importation under bond has been filed with Customs in proper form.

Subpart A—Liability for Duties and Requirement To Enter Merchandise

§ 141.1 Liability of importer for duties.

(a) *Time duties accrue.* Duties and the liability for their payment accrue upon imported merchandise on arrival of the importing vessel within a Customs port with the intent then and there to unlade, or at the time of arrival within the Customs territory of the United States if the merchandise arrives otherwise than by vessel, unless otherwise specially provided for by law.

■ (b) *Payment of Duties.*—(1) *Personal debt of importer.* The liability for duties, both regular and additional, attaching on importation, constitutes a personal debt due from the importer to the United States which can be discharged only by payment in full of all duties legally accruing, unless relieved by law or regulation. Payment to a broker covering duties does not relieve the importer of liability if the duties are not paid by the broker. The liability may be enforced notwithstanding the fact that an erroneous construction of law or regulation may have enabled the importer to pass his goods through the customhouse without payment. Delivery of a Customs bond with an entry is solely to protect the revenue of the United States and does not relieve the importer of liabilities incurred from the importation of merchandise into the United States.

(2) *Means of Payment.* An importer or his agent may pay Customs by using any of the applicable means provided in § 24.1(a).

(3) *Methods of payment.* An importer may pay duties either—

(i) Directly to Customs whether or not a licensed customhouse broker is used; or

(ii) Through a licensed customhouse broker. When an importer uses a broker and elects to pay by check or bank draft, the importer may issue the broker either—

(A) One check or bank draft payable to the broker covering both duties and the broker's fees and charges, in which case the broker shall pay the duties to Customs on behalf of the importer, or

(B) Separate checks or bank drafts, one covering duties payable to the "U.S. Customs Service," for transmittal by the broker to Customs, and the other covering the broker's fees and charges. The importer's check or bank draft for duties shall be delivered to Customs by the broker. **[TD 82-134.]**

(c) *Prior claim against importer's estate.* The Government's claim for unpaid duties against the estate of a deceased or insolvent importer has priority over obligations to creditors other than the United States.

(d) *Lien against merchandise.* The liability for duties also constitutes a lien upon the merchandise imported which may be enforced while such merchandise is in the custody or subject to the control of the United States.

(e) *States and their instrumentalities.* Neither the States nor their instrumentalities are entitled to any constitutional exemption from the payment of Customs duties.

(f) *Unordered merchandise.* There shall be no liability for the payment of duties on the part of anyone to whom merchandise is consigned without his authority, if he refuses it. Such merchandise shall be treated as unclaimed (see Part 20 of this chapter). (R.S. 3466, 3467, as amended; 31 U.S.C. 191, 192)

§ 141.2 Liability for duties on reimportation.

Dutiable merchandise imported and afterwards exported, even though duty thereon may have been paid on the first importation, is liable to duty on every subsequent importation into the Customs territory of the United States, but this does not apply to the following:

(a) Personal and household effects taken abroad by a resident of the United States and brought back on his return to this country (see § 148.31 of this chapter);

(b) Professional books, implements, instruments, and tools of trade, occupation, or employment taken abroad by an individual and brought back on his return to this country (see § 148.53 of this chapter);

(c) Automobiles and other vehicles taken abroad for noncommercial use (see § 148.32 of this chapter);

(d) Metal boxes, casks, barrels, carboys, bags, quicksilver flasks or bottles, metal drums, or other substantial outer containers exported from the United States empty and returned as usual containers or coverings of merchandise, or exported filled with products of the United States and returned empty or as the usual containers or coverings of merchandise (see § 10.7(b), (c), (d), and (e) of this chapter);

(e) Articles exported from the United States for repairs or alterations, which may be returned upon the payment of duty on the value of repairs or alterations at the rate or rates which would otherwise apply to the articles in their repaired or altered conditions (see § 10.8 of this chapter);

(f) Articles exported for exhibition under certain conditions (see §§ 10.66 and 10.67 of this chapter);

(g) Domestic animals taken abroad for temporary pas-

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PART 142—ENTRY PROCESS

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142.29 Other procedures applicable.

Authority: R.S. 251, as amended, secs. 448, 484, 624, 46 Stat. 714, as amended, 722, as amended, 759; 19 U.S.C. 66, 1448, 1484, 1624, Pub. L. 95–410 (92 Stat. 888). Additional authority and statutes interpreted or applied are cited in the text or following the sections affected.

Source: T.D. 79–221, 44 FR 46821, August 9, 1979, unless otherwise noted.

§ 142.0 Scope.

This part sets forth requirements and procedures relative to (a) the entry of merchandise, as authorized by section 484, Tariff Act of 1930, as amended (19 U.S.C. 1484), and (b) special permits for immediate delivery of merchandise, as authorized by section 448(b), Tariff Act of 1930, as amended (19 U.S.C. 1448(b)). [TD 73–175.]

§ 142.1 Definitions.

For definitions of "entry", "entry summary," "submission", "filing," "presentation", "entered for consumption", "entered for warehouse", and "entered under a temporary importation bond", as these terms relate to the entry of merchandise, see § 141.0a of this chapter.

§ 142.2 Time for filing entry.

(a) *General rule: After arrival of merchandise.* Merchandise for which entry is required shall be entered by the consignee within 5 working days after the entry of the importing vessel or aircraft, report of the vehicle, or arrival at the port of destination in the case of merchandise transported in bond, unless a longer time is authorized by law or regulation, or by the district director in writing.

(b) *Before arrival of merchandise*—(1) *Entry.* The entry documentation required by § 142.3(a) may be submitted before the merchandise arrives within the limits of the port where entry is to be made, in which case the time of entry shall be the time specified in § 141.68(a).

(2) *When entry summary serves as entry.* The entry summary when it will be filed at time of entry to serve as both the entry and the entry summary, as provided in § 142.3(b), may be submitted for preliminary review in accordance with §§ 141.63(a) and 142.12(a)(2).

§ 142.3 Entry documentation required.

(a) *Contents.* Except as provided in paragraph (b) of this section, the entry documentation required to secure the release of merchandise shall consist of the following:

(1) *Entry.* Customs Form 3461 (appropriately modified), except that Customs Form 7533 (appropriately modified), in duplicate, may be used in place of Customs Form 3461 for merchandise imported from a contiguous country. The form used shall be prepared in accordance with § 141.61(a)(1) of this chapter.

(2) *Evidence of the right to make entry.* Evidence of the right to make entry, as set forth in§ 141.11 of this chapter.

(3) *Commerical invoice.* A commerical invoice, except that in those instances listed in § 141.83(d) of this chapter where a commerical invoice is not required, a pro forma invoice or other acceptable documentation listed in that section may be submitted in place of a commercial invoice.

(4) *Packing list.* A packing list, where appropriate.

(5) *Other documentation.* Other documents which may be required by Customs or other Federal, State, or local agencies for a particular shipment.

(b) *Entry summary filed at time of entry.* When the entry summary is filed at time of entry, in accordance with § 142.12(a)(1) or § 142.13.

(1) Customs Form 3461 or 7533 shall not be required, and

(2) Customs Form 7501, 7502, or 3311, as appropriate (see § 142.11), shall serve as both the entry and the entry summary documentation if the additional documentation set out in paragraphs (a)(2), (3), (4), and (5) of this section and § 142.16(b) is filed.

(c) *Extra copies.* The district director may require additional copies of the documentation.

§ 142.3a Assigned entry numbers.

(a) *Request and authorization.* Upon the written request of an importer or broker, the district director shall assign sufficient entry numbers for use by the importer or broker at any port within the district during the fiscal year. Numbers shall be assigned in blocks of not less than 100, unless the district director determines that an assignment of a block of less than 100 is warranted. Additional requests and assignments may be made during the fiscal year if additional numbers are needed.

(b) *"Fiscal year" defined.* For purposes of this section, the initial "fiscal year" shall begin on October 1, 1979, and end on September 30, 1980. Thereafter, each fiscal year shall begin on October 1 and end on September 30.

(c) *Assigned entry number and its use.* The assigned entry number shall be a six-digit number preceded by the last two digits of the fiscal year and a space: for example, 79 100001. The importer or broker shall place the assigned entry number on the entry and the corresponding entry summary documentation. The number shall be preprinted, stamped, typed or written legibly. Each number shall be used only once.

(d) *Report.* Within 30 days after the end of the fiscal year, each importer or broker to whom entry numbers have been assigned shall account in writing to the district director for each entry number which has not been used. Entry numbers assigned but not used during the fiscal year shall be cancelled.

(e) *Refusal to assign entry numbers; cancellation.* The district director may refuse to assign entry numbers to an importer or broker, or may cancel entry numbers previously assigned and remaining unused, if the importer or broker:

(1) Fails to account satisfactorily to the district director for any numbers assigned but not used, or

(2) Misuses numbers which have been assigned to him.

(f) *Alternative procedure.* If an importer or broker does not request assignment of entry numbers, of if the district director, in accordance with paragraph (e) of this section, refuses to assign entry numbers, or cancels entry numbers, previously assigned, the importer or broker shall obtain an entry number at the customhouse before his merchandise may be released. The entry number so obtained shall be placed on the entry and the corresponding entry summary documentation.

§ 142.4 Bond requirements.

(a) *At time of entry.* Except as provided in § 10.101(d) of this chapter, merchandise shall not be released from Customs custody at the time Customs receives the entry documentation or the entry summary documentation which serves as both the entry and the entry summary, as required by § 142.3, unless one of the following types of bonds, executed by an approved corporate surety, or secured by cash deposits or obligations of the United States, as provided for in § 113.39(a) of this chapter, has been filed.

(1) *Single entry bond.* A single entry bond on Customs Form 7551, with the amount of the bond determined in accordance with § 113.14(g)(1) of this chapter. When any of the imported merchandise is subject to a tariff-rate quota and is to be released at a time when the applicable quota is filled, the full rates shall be used in computing the estimated duties to determine the amount of the bond. **[TDs 74-227, 77-23.]**

(2) *Term bond.* A term bond on Customs Form 7553, with the amount of the bond determined in accordance with § 113.14(g)(2) of this chapter. **[TD 74-227.]**

(3) *General term bond.* A general term bond on Customs Form 7595, with the amount of the bond determined in accordance with §§ 113.14(s) and 113.62 of this chapter.

(b) *If entry summary is filed after entry.* (1) Except as provided in § 141.102(d) of this chapter, if the entry summary is filed after the entry, bond filed at the time of entry, as required by paragraph (a) of this section or by § 142.19, shall continue to be obligated unless a superseding bond is filed, as provided in § 141.20 of this chapter, or unless a bond of the type described in paragraph (a) of this section is filed under the circumstances described in paragraph (b)(2) of this section. If a superseding bond is filed, or if a bond is filed under the circumstances described in paragraph (b)(2) of this section, the obligations of the initial bond shall be terminated as to any liability which may accrue after the superseding or other bond becomes effective.

(2) If entry is made in the name of an agent, supported by the agent's bond, or in the name of a principal, supported by the principal's bond, and the entry summary thereafter is filed in the name of the other party, the party named in the entry summary shall file one of the bonds enumerated in paragraph (a) of this section. In this circumstances, the bond obligation of the party in whose name entry was made shall be terminated, as to liability which may accue after the bond filed by the party name in the entry summary becomes effective, and the party filing the entry summary need not file the separate declaration of the actual owner and the superseding bond otherwise required under § 141.20 of this chapter.

§ 142.5 Bond rider.

A bond rider in the following form shall be executed and attached to any entry bond provided for in § 142.4, utilized by an importer who makes entry under the provisions of section 484, Tariff Act of 1930, as amended (19 U.S.C. 1484):

Rider "R"

(To be attached to all entry bonds)

Whereas certain merchandise which is referred to in a bond-dated________, in the amount of________, executed by ________, as principal, and________, as surety, to which this rider relates has been imported at the port of ________, and entered at said port on entry No. ________, dated ________ 19____, or the principal expects to enter merchandise during the period covered by a term bond to which this rider dated________19____, in the amount of________, executed by________, as principal, and________, as surety.

Whereas the merchandise, in whole or in part, may be entered under the provisions of section 484 of the Tariff Act of 1930, as amended (19 U.S.C. 1484), and duties deposited under the provisions of section 505(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1505(a)).

It is hereby expressly agreed by the principal and surety on the bond referenced above that the following condition, in addition to the conditions appearing in the bond, shall apply: And if where entry is made pursuant to section 484 of the Tariff Act of 1930, as amended (19 U.S.C. 1484), the bounded principal, within the time prescribed in the Customs Regulations, shall file with the appropriate Customs officer the documentation required by the Customs Regulations to enable Customs to (1) determine whether the merchandise may be released from Customs custody, (2) properly assess duties on the merchandise, (3) collect accurate statistics wtih respect to the merchandise, and (4) determine whether applicable requirements of law or regulation are met; and if the bounden principal, within the time prescribed in the Customs Regulations, shall deposit the duties and taxes imposed upon or by reason of importation estimated to be due thereon; or if, in the even of failure to file the documentation or to deposit duties and taxes, he shall pay to the district director of Customs as liquidated damages an amount equal to the value of the merchandise as to which there shall have been default, plus the duties and taxes thereon (it being understood and agreed that the amount to be collected shall be based upon the quantity and value of the merchandise as determined by the district director, and that the decision of the district director as to the status of the merchandise, whether free or dutiable, together with the rate and amount of duties and taxes, also shall be binding on all parties to this obligation).

Witness our hands and seals this ________ day of ________________ 19______.

(Seal)
Principal ________________________________
(Seal)
Surety ________________________________

Certificate as to Corporate Principal

I, ________________certify that I am the [1] ________________of the corporation named as principal in the rider; that ________________, who signed the said rider on behalf of the principal was then________________ of said corporation, that I know this signature, and his signature thereto is genuine; and that said rider was duly signed, sealed, and attested for and in behalf of said corporation by authority of its governing body.

(Corporate Seal)

(To be used when no power of attorney has been filed with the district director of Customs)

§ 142.6 Invoice requirements.

(a) *Contents*. The commercial invoice, or the documentation acceptable in place of a commercial invoice in those instances listed in § 141.83(d) of this chapter, shall be furnished with the entry and before release of the merchandise is authorized. The commercial invoice or other acceptable documentation shall contain:

(1) An adequate description of the merchandise.

(2) The quantities of the merchandise.

(3) The values or approximate values of the merchandise.

(4) The appropriate five-digit item number from the Tariff Schedules of the United States. If the importer is uncertain of the appropriate tariff item number, Customs shall assist him at his request. The district director may waive this requirement if he is satisfied that the information is not available at the time release of the merchandise is authorized.

(b) *Information not required when filing entry*. In addition to the information specified in paragraph (a) of this section, the commerical invoice or substitute document filed with the entry documentation also may include any other invoice information required by §§ 141.86 through 141.89 of this chapter. However, if this information does not appear on the invoice or substitute document filed with the entry documentation, it shall be included in the invoice or substitute document delivered at the time the entry summary documentation is filed.

§ 142.7 Examination of merchandise.

No merchandise for which the entry documentation required by § 142.3 has been filed shall be released until it has been examined, or until adequate samples have been taken in the case of merchandise which is to be classified and appraised by means of samples, unless this requirement is waived by the district director in accordance with section 499, Tariff Act of 1930, as amended (19 U.S.C. 1499).

142.8 Failure to file entry timely.

Merchandise for which timely entry is not filed as required by § 142.2 shall be treated in accordance wtih § 4.37 and Part 127 of this chapter.

Subpart B—Entry Summary Documentation

§ 142.11 Entry summary form.

(a) *Customs Form 7501*. The entry summary shall be on Customs Form 7501 unless a different form is prescribed elsewhere in this chapter. Customs Form 7501 shall be used for both merchandise formally entered for consumption, and formally entered under a temporary importation bond under § 10.31. The entry summary for merchandise which may be entered free of duty in accordance with § 10.1(g) or (h) of this chapter may be on Customs Form 3311 instead of on Customs Form 7501, and the entry summary for warehouse entries shall be on ■ Customs Form 7502. For merchandise entitled to be entered under an informal entry, see § 143.23 of this chapter.

(b) *Extra copies*. The district director may require additional copies of the entry summary.

§ 142.12 Time for filing or submission for preliminary review.

(a) *At option of importer—(1) Filing*. Except as provided in § 142.13, the importer may file the entry summary documentation at the time of entry in which case the entry summary, with estimated duties attached, shall serve as both the entry and the entry summary.

(2) *Submission for preliminary review*. If the importer intends to file the entry summary documentation at the time of entry, he may submit the entry summary documentation for preliminary review before arrival of the merchandise, in accordance with § 141.63(a) of this chapter. After preliminary review is completed, the entry summary shall be returned to the importer for filing in accordance wtih paragraph (a)(1) of this section.

(b) *When required*. If the importer is not required to file the entry summary documentation at the time of entry under the provisions of § 142.13, or if he does not elect to do so, the entry summary documentation shall be filed, with estimated duties attached, within 10 working days after the time of entry.

(c) *Estimated duties*. Estimated duties, if any, shall be deposited in accordance with the provisions of Subpart G of Part 141 of this chapter.

§ 142.13 When entry summary must be filed at time of entry.

(a) *Authority of district director*. The district director may require that the entry summary documentation be filed and that estimated duties, if any, be deposited at the time of entry before the merchandise is released if the importer:

(1) Has failed repeatedly to file timely entry summary documentation without justification,

(2) Has not taken prompt action to settle a claim for liquidated damages issued under § 142.15 for failure to file entry summary documentation timely. "Prompt action" means that the importer, within the time specified in a claim for liquidated damages, shall petition for relief or

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[1] May be executed by the secretary, assistant secretary, or other officer of the corporation.

pay the amount, claimed and, in appropriate cases, file the entry summary documentation and deposit estimated duties, if any, or

(3) Has repeatedly delivered entry summary documentation, which is incomplete or which contains erroneous information.

(b) *Authority of regional commissioner.* The regional commissioner may require that the entry summary documentation be filed and that estimated duties, if any, be deposited at the time of entry before the merchandise is released if the importer is substantially or habitually delinquent in the payment of Customs bills. See § 142.14.

(c) *Special classes of merchandise.*—(1) *Quota-class merchandise.* Quota-class merchandise shall not be released upon delivery of entry documentation before presentation of an entry summary for consumption, with estimated duties attached, or a withdrawal for consumption, with estimated duties attached. (See Part 132 of this chapter.)

(2) *Other classes of merchandise.* Entry summary documentation, with estimated duties attached, or a withdrawal for consumption with estimated duties attached, shall be filed at the time of entry before release of any other merchandise of a class designated by Headquarters.

(d) *Brokers; restriction.* A broker shall not circumvent an action taken under this section by applying for release of the importer's merchandise in the brokers's name and under the broker's bond.

§ 142.14 Delinquent payment of Customs bills.

The following procedure shall be followed if an importer is substantially or habitually delinquent in the payment of Customs bills:

(a) *Notice.* The importer shall be advised in writing by the regional commissioner of Customs for the region in which he is substantially or habitually delinquent that he shall file the entry summary documentation with estimated duties attached, before his merchandise may be released from Customs custody in that region. The notice shall state the reason for the action and advise the importer that if payment of all his delinquent Customs bills is not made within 10 working days from the date of the notice, he shall be required to file the entry summary document with estimated duties attached, before his merchandise may be released in any Customs region. In either case, the entry summary shall serve as both the entry and the entry summary.

(b) *Removal or requirement by region.* If the importer pays all his delinquent Customs bills within 10 working days after the date of the notice, the requirement shall be removed, and the importer need file only the entry documentation specified in § 142.3 to secure release of his merchandise.

(c) *Removal of requirement by Headquarter.* If the importer has not paid all his delinquent Customs bills within 10 working days after the date of the notice, he also shall be required to file the entry summary documentation, with estimated duties attached, in each Customs region. In this case, the entry summary shall serve as both the entry and the entry summary. This requirement shall remain in effect in each port of entry until notification is received from Headquarters that the requirement is removed and that the importer need submit only the entry documentation listed in § 142.3 to secure release of his merchandise.

§ 142.15 Failure to file entry summary timely.

If the entry summary documentation is not filed timely, the district director shall make an immediate demand for liquidated damages in the entire amount of the bond in the case of a single entry bond. When the transaction has been charged against a term bond, the demand shall be for the amount that would have been demanded if the merchandise had been released under a single entry bond. Any application to cancel liquidated damages incurred shall be made in accordance with Part 172 of this chapter.

§ 142.16 Entry summary documentation.

(a) *Entry summary not filed at time of entry.* When the entry documentation is filed before the entry summary documentation, one copy of the entry document and the commercial invoice, or the documentation filed in place of a commercial invoice in the instances listed in § 141.83(d) of this chapter, shall be returned to the importer after Customs authorizes release of the merchandise. The importer may use these documents in preparing the entry summary, Customs Form 7501, and shall file them with the entry summary documentation within the time period stated in § 142.12(b). The entry summary documentation also shall include Customs Form 5101 and any other documents required for a particular shipment, such as a Special Customs Invoice, Customs Form 5515, unless a bond for missing documents is on file, as provided in § 141.66 of this chapter.

(b) *Entry summary filed at time of entry.* When the entry summary documentation is filed at time of entry, the documentation listed in § 142.3 shall be filed at the same time, except that Customs Form 3461 or 7533 shall not be required. The importer also shall file Customs Form 5101 and any additional invoice required for a particular shipment, such as a Special Customs Invoice, Customs Form 5515.

§ 142.17 One entry summary for multiple entries.

(a) *Requirements.* Except as provided in paragraph (b) of this section, the district director may permit the filing of one entry summary for merchandise the subject of separate entries if:

(1) The merchandise has the same country of exportation, and the same country of origin,

(2) The merchandise arrives by land, by the same vessel or by the same air carrier,

(3) The merchandise is consigned to the same consignee,

(4) The time between the date of the first entry and the date of the last entry does not exceed 1 week,

(5) The entry summary document is filed within 10 working days from the date of the first entry, and

(6) Each entry is identified separately by entry number on the entry summary.

(b) *Merchandise not eligible.* One entry summary shall not be used for multiple entries of the following:

(1) Quota-class merchandise,

(2) Prohibited merchandise,

(3) Merchandise subject to restrictions which required processing and documentation more frequently than on a weekly basis,

(4) Merchandise for which liquidation has been withheld, and

consigned for sale, a statement of the fair retail value in the country of shipment), giving an accurate description and the purchase price of the merchandise, securely attached to the outside of the mail article, or enclosed therein. If the shipment consists of more than one mail article, a copy of the invoice should accompany each mail article, or else the invoice shall accompany the mail article bearing the declaration, and that mail article shall be marked "Invoice enclosed." **[TD 76-103, 78-102.]**

(c) *Special Customs invoice.* A special Customs invoice shall accompany a mail shipment when required by § 141.83 of this chapter. If a special Customs invoice accompanies the shipment, no other invoice or statement of value is required, although a Customs declaration is required in accordance with paragraph (a) of this section. **[TDs 73-175, 76-103]**

(d) *Shipments without declaration and invoice.* Shipment of merchandise which are not accompanied by a Customs declaration and invoice in accordance with paragraphs (a)-(c) of this section may be subject to seizure and forfeiture in accordance with § 145.4. (Secs. 481, 485, 498, 46 Stat. 719, 724, as amended, 728, as amended; 19 U.S.C. 1481, 1485, 1498).

§ 145.12 Entry of merchandise.

(a) *Formal entries*—(1) *Discretionary.* The district director may require formal entry of any mail shipment regardless of value if in his opinion it is necessary to protect the revenue.

(2) *Required.* Formal entry at the customhouse shall be required for every importation in the mails which exceeds $250 in value, except for special classes of merchandise which can be released without entry (see subpart D of this part), and except as provided in Subparts B and C of Part 143 and § 10.1 of this chapter. **[TD 73-175]**

(3) *Separate shipments.* Separate shipments not exceeding $250 in value, if mailed abroad at different times (as shown by the declaration or other mailing indicia), shall not be combined for the purpose of requiring formal entry, even though they reach Customs at the same time and are covered by a single order or contract in excess of $250, unless there was a splitting of shipments in order to avoid the payment of Customs duty.

(4) *Notice of formal entry requirement.* When a formal entry is required, the addressee shall be notified of the arrival of the shipment and of the place at which entry is to be made. If the shipment is addressed to a point which is not a Customs port or station, the port of entry specified in the notice shall be the port nearest the destination of the shipment. When a formal entry is filed, it shall contain all the statistical information as provided in § 141.61(e) of this chapter. **[TD 73-312]**

(b) *Mail and informal entries*—(1) *Preparation of entry form.* Except as provided in paragraphs (c) and (e) of this section, Customs officers shall prepare and attach a mail entry (Customs Form 3419) for each shipment not exceeding $250 in value which is to be delivered by the Postal Service, and return the shipment to the Postal Service for delivery and collection of duty. If the addressee has arranged to pick up such a shipment at the Customs office where it is being processed, the Customs officer shall prepare an informal entry (Customs Form 5119-A) and collect the duty in accordance with Subpart C of Part 143 of this chapter. **[TD 73-175, 78-394]**

(2) *Rates of duty.* Merchandise released under a mail or informal entry shall be dutiable at the rates of duty in effect when the preparation of the entry is completed by a Customs employee, ready for transmittal with the merchandise to the addressee.

(c) *Dutiable shipments not over $250 for Government agencies.* When a dutiable shipment not exceeding $250 in value is addressed to a U.S. Government department or agency, the district director may release the merchandise prior to the payment of duties under an entry on Customs Form 5119-A, upon the receipt of a stipulation in the form set forth in § 141.102(d) of this chapter. If the stipulation does not accompany the shipment, the district director shall notify the Government department or agency of the arrival of the shipment and request the stipulation. Upon receipt of the completed stipulation and preparation of the entry form, the district director shall stamp all mail articles in the shipment to show that they have received Customs treatment and shall return the shipment to the Postal Service for delivery, unless the addressee has arranged to pick up the shipment at the Customs office where it is being processed. The proper Government department or agency shall be billed later for any duties and taxes due. **[TD 73-175]**

(d) *Release without entry.* Certain types of merchandise may be passed free of duty without issuing an entry (see Subpart D of this part). (Secs. 315, 484, 498, 46 Stat. 695, as amended, 722, as amended, 728, as amended; 19 U.S.C. 1315, 1484, 1498.) **[TD 78-394]**

(e) *Unaccompanied shipments.*

(1) *Mail entry to be attached.*—If the requirements of section 148.115(a) of this chapter are met, Customs officers shall prepare and attach a mail entry, Customs Form 3419, for each shipment for which entry is claimed under item 869.10, Tariff Schedules of the United States (19 U.S.C. 1202), which is to be delivered by the Postal Service, and return the shipment to the Postal Service for delivery and collection of duty. If the addressee has arranged to pick up the shipment at the Customs office where it is being processed, the Customs officer shall prepare an informal entry, Customs Form 5119-A, and collect the duty in accordance with subpart C of part 143 of this chapter if the requirements of section 148.115(a) of this chapter are met. **[TD 78-394]**

(2) *Disposition of Customs Form 255.*—The Declaration of Unaccompanied Articles, Customs Form 255, affixed to the shipment shall be removed by the Customs officer and retained for Customs purposes. If a mail entry, Customs Form 3419, has been prepared, the mail entry number shall be noted on the Customs Form 255.

§ 145.13 Internal revenue tax on mail entries.

(a) *Method of collection.* Any internal revenue tax assessed on a mail entry shall be shown as a separate item on the entry, and collected in the same manner as Customs duties.

(b) *Release without payment of tax.* A mail entry may not be used to release a shipment of cigars, cigarettes, or cigarette papers or tubes for a manufacturer without payment of tax as provided for in 27 CFR Part 275 and § 11.2a of this chapter. If a claim for release without payment of tax is made by the addressee at the time of delivery, the shipment will be returned by the Postal Service to the port of entry or sent to the nearest Customs office at which appropriate release as claimed may be arranged by the addressee. **[TD 78-329]**

§ 145.14 Marking requirements.

(a) *Country of origin.* Merchandise imported by mail shall be marked with the country of origin in accordance with part 134 of this chapter. If merchandise without the required marking is to be delivered from the post office where it has been given Customs examination, the Customs officer shall require compliance with the marking law and regulations. If it is to be delivered from another post office, the Customs officer shall place in the envelope containing the mail entry a copy of Customs Form 3475, containing instructions to the postmaster concerning the marking to be required before delivery.

(b) *Other marking requirements.* Certain types of merchandise are subject to special marking requirements, such as those contained in the Textile Fiber Products Identification Act, the Wool Products Labeling Act, and the Trademark Act. Since there is no provision for post office supervision of these types of marking, the district director shall require compliance with the law and regulations (see parts 11 and 133 of this chapter).

(c) *Failure to mark.* If the addressee fails to comply with the marking requirements, the package will be treated as undeliverable in accordance with § 145.5.

Subpart C—Administrative Review of Mail Entries

§ 145.21 Administrative review.

Requests for adjustment of the amount of duty assessed under mail entries shall be handled as requests for administrative review in accordance with this subpart.

§ 145.22 Procedures for obtaining administrative review.

If an addressee is dissatisfied with the amount of duty assessed under a mail entry, he may obtain administrative review in the following ways:

(a) He may pay the assessed duty, take delivery of the merchandise, and send a copy of the mail entry to the issuing Customs office indicated on the mail entry, together with a statement of the reason it is believed the duty assessed is incorrect. Any invoices, bills of sale, or other evidence should be submitted with the statement. The addressee may show the mail entry number and date on his statement instead of sending a copy of the mail entry, but this may result in delay since a copy of the entry will have to be obtained from the Regional Commissioner of Customs, New York, N.Y., before the entry can be amended.

(b) He may postpone acceptance of the shipment, and within the time allowed by the Postal regulations provide the postmaster with a written statement of his objections. The postmaster will forward the mail entry together with the addressee's statement and any invoices, bills of sale, or other evidence submitted by the addressee to the district director who issued the entry, and retain custody of the shipment until advice is received from the district director as to the disposition to be made. If the addressee is located near one of the ports at which Customs officers are authorized to review mail entries (see 39 CFR 10.5), the postmaster may send the mail entry to that port, together with the addressee's statement and evidence, for reconsideration by the district director. **[TD 78-99]**

(c) He may pay the assessed duty and take delivery of the merchandise, and file a protest under section 514, Tariff Act of 1930, as amended (19 U.S.C. 1514), in the form and manner prescribed in Part 174 of this chapter. (Secs. 501, 514, 46 Stat. 730, as amended, 734, as amended; 19 U.S.C. 1501, 1514.)

§ 145.23 Time limits.

A mail entry may be amended under section 520(c), Tariff Act of 1930, as amended (19 U.S.C. 1520(c)), only if the addressee requests such amendment within the time limits prescribed therein (see §§ 173.4 and 173.5 of this chapter), and the claim is allowable under section 520(c). Requests for adjustment in the amount of duty assessed under mail entries made under § 145.22(a) shall be made in such time that the request can be acted upon by the district director within 90 days after receipt of the package and payment of the duties by the addressee. Protests under § 145.22(c) must be filed not later than 90 days after payment of the duties by the addressee, but may be acted upon after the expiration of that 90-day period. (Secs. 501, 514, 46 Stat. 730, as amended, 734, as amended; 19 U.S.C. 1501, 1514)

§ 145.24 Amendment of entry.

If the district director is satisfied that the objection is valid and timely, he shall amend the mail entry. If the duty has already been paid, the Regional Commissioner shall issue an appropriate refund of duty.

§ 145.25 Entry correct.

If the district director believes the duty originally assessed was correct, he shall send the addressee a notice in writing that the request for refund of duty has been denied. If the duty has not been paid, the mail entry shall be returned to the postmaster concerned, together with a copy of the notice sent to the addressee. The postmaster will then collect the duty and deliver the shipment, or, if the addressee refuses to pay the duty, will treat the shipment as undeliverable.

§ 145.26 Rates of duty not binding.

Rates of duty assessed on a mail entry, whether assessed on the original entry or as amendments Part 177, are not binding for future importations. A binding ruling on tariff classification may be obtained in accordance with the procedures set forth in § 152.14 of this chapter. **[TDs 73-175, 78-99.]**

PART 146—FOREIGN-TRADE ZONES

Sec.

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Authority: R.S. 251, secs. 1–21, 48 Stat. 998, 999, as amended, 1000, 1002, as amended, 1003, 77A Stat. 14, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 81a–81u, 1202 (Gen. Hdnote 11), 1624.

Source: T.D. 70–134, 35 FR 9262, June 13, 1970, unless otherwise noted.

§ 146.0 Scope.

Foreign-trade zones are established under the Foreign-Trade Zones Act and the general regulations and rules of procedure of the Foreign-Trade Zones Board contained in 15 CFR Part 400. This Part 146 of the Customs Regulations governs the admission of merchandise into a foreign-trade zone, manipulation, manufacture, or exhibition in a zone; exportation of the merchandise from a zone; and transfer of merchandise from a zone into Customs territory. **[TD 70-134.]**

Subpart A—General Provisions

§ 146.1 Definitions.

The following are general definitions for the purposes of this part:

(a) *Act.* "Act" means the Foreign-Trade Zones Act of June 18, 1934, as amended (48 Stat. 998–1003; 19 U.S.C. 81a–81u).

(b) *Board.* "Board" is the Foreign-Trade Zones Board established by the Foreign-Trade Zones Act to carry out the provisions of the Act.

(c) *Customs territory.* "Customs territory" is the territory of the United States in which the general tariff laws of the United States apply but which is not included in any zone. "Customs territory of the United States" includes only the States, the District of Columbia, and Puerto Rico. (Gen. Hdnote 2, Tariff Schedules of the United States.)

(d) *Grantee.* "Grantee" is a corporation to which the privilege of establishing, operating, and maintaining a foreign-trade zone has been granted by the Foreign-Trade Zones Board.

(e) *Merchandise.* "Merchandise" includes goods, wares, and chattels of every description, except prohibited articles.

(1) *Domestic merchandise.* "Domestic merchandise" is that which has been (i) produced in the United States and not exported therefrom, or (ii) previously imported into Customs territory and properly released from Customs custody.

(2) *Foreign merchandise.* "Foreign merchandise" is imported merchandise which has not been properly released from Customs custody in Customs territory.

(f) *Zone.* "Zone" is a foreign-trade zone established under the Foreign-Trade Zones Act.

§ 146.2 Designation of District Director as Board Representative.

The district director in whose district the zone is located shall be in local charge of the zone as the resident representative of the Board.

§ 146.3 Assignment of Customs Officers.

The district director in whose district the zone is located shall assign the necessary Customs officers and guards to maintain appropriate Customs control over merchandise in the zone and to protect the revenue.

§ 146.4 Reimbursement of Customs expenses.

The cost of providing the additional Customs services required under the Act or the regulations in this part shall be reimbursed to the Government by the grantee, payment to be made monthly to the district director.

§ 146.5 Permission of grantee required.

(a) *Written concurrence necessary.* Applications for permission to transfer merchandise into a zone, to do anything involving merchandise in a zone, or to remove merchandise from a zone shall show the written concurrence of the grantee, except where the regulations in this part provide for the making of applications by the grantee itself or permit the grantee to file a separate specific or blanket approval.

(b) *Questioning grantee's concurrence.* Government officers acting in their official capacities may question the grantee's concurrence if in their opinion it was improperly given.

§ 146.6 Authority to examine merchandise.

The district director may cause any merchandise in a zone to be examined at the time of admission, or at any time thereafter, if the examination is deemed necessary to facilitate the proper administration of any law, regulation, or instruction which the Customs Service is authorized to enforce.

§ 146.7 Transportation of merchandise to a zone.

(a) *From outside Customs territory.* Merchandise may be brought directly to a zone from any place outside Customs territory.

(b) *Through Customs territory; foreign merchandise.* Foreign merchandise destined to a zone and transported in bond through Customs territory shall be subject to the laws and regulations applicable to other merchandise transported in bond between two places in Customs territory.

(c) *From Customs territory; domestic merchandise.* Domestic merchandise may be brought to a zone from Customs territory by any means of transportation which will not interfere with the orderly conduct of business in the zone.

§ 146.8 Use of zone by carriers.

(a) *Primary use; lading and unlading.* The water area docking facilities, and any loading and unloading stations of a zone are intended primarily for the unlading of merchandise into the zone or the lading of merchandise for removal from the zone. Their use for other purposes may be terminated by the Secretary of the Treasury if found to endanger the revenue or by the Board if found to impede the primary uses of the zone.

(b) *Carriers in zone not extent from law or regulation.* Nothing in the Act or the regulations in this part shall be construed as excepting any carrier entering, remaining in, or leaving a zone from the application of any other pertinent law or regulation.

Subpart B—Admission of Merchandise to a Zone

§ 146.11 Merchandise permitted in a zone.

Merchandise of every description, including over-quota merchandise, may be brought into a zone unless prohibited by law. A distinction is made between prohibited and conditionally admissible merchandise.

(a) *Prohibited merchandise.* Prohibited merchandise is merchandise which is prohibited by law on the grounds of policy or morals, such as books or pictures urging treason or insurrection against the United States, obscene books or pictures and lottery matter. District directors are required to exclude this class of articles and shall not permit them to be transferred to a zone if aware of their prohibition status. If there is a question as to whether the merchandise is prohibited, district directors may permit the temporary deposit of the merchandise in a zone pending a final determination of its status. Any prohibited merchandise which is found within a zone shall be disposed of in the manner provided for in the laws and regulations applicable to such merchandise.

(b) *Conditionally admissible merchandise.* Conditionally admissible merchandise is merchandise which may be imported under certain conditions, for example, articles which are subject to permits or licenses or which may be reconditioned to bring them into compliance with the laws administered by various Federal agencies. The admission of articles of this class into a zone is subject to any requirements of the Federal agency concerned.

§ 146.12 Application and permit for admission of merchandise.

(a) *Application on Customs Form 214 and permit.* Except in the case of entered merchandise brought into a zone for manipulation (§ 146.13) and merchandise transiting a zone (§ 146.14), merchandise may be admitted into a zone only upon application on Customs Form 214.

(b) *Documents in support of application*—(1) *Merchandise transported through Customs territory.* For foreign merchandise arriving at a zone after transportation through Customs territory the application shall be supported by:

(i) *Release order.* A release order on the application or another document executed by the carrier which brought the goods to the port where the zone is located authorizing the transfer of the merchandise to the zone; and

(ii) *Evidence of right to make entry.* A document or documents like those which would be required of the applicant as evidence of his right to make entry for merchandise in Customs territory (see § 141.11 of this chapter). **[TD 73-175.]**

(2) *Merchandise unladen directly from the importing carrier.* For merchandise unladen in the zone directly from the importing carrier the application on Customs Form 214 shall be supported by an application to unlade on Customs Form 3171 (§ 146.14(a)).

(c) *Conditions for issuance of a permit.* Merchandise for which an application to admit merchandise to a zone is made shall be admitted when:

(1) The application is properly executed and includes an indication of the desired zone status of the merchandise (i.e., privileged foreign, privileged domestic, nonprivileged foreign, nonprivileged domestic, or zone-restricted merchandise as provided for in Subpart C of this part);

(2) The grantee's approval appears either on the application or in a separate specific or blanket approval (§ 146.5); and

(3) The permit is granted by the district director as the representative of the Board.

§ 146.13 Temporary admission for manipulation.

Imported merchandise for which an entry has been made and which has remained in continuous Customs custody may be admitted temporarily to a zone for manipulation and return to Customs territory under Customs supervision pursuant to section 562, Tariff Act of 1930, as amended (19 U.S.C. 1562) and § 19.11 of this chapter. Such merchandise shall not be considered within the purview of the Act but shall be treated as though remaining in Customs territory. No zone form or procedure shall be considered applicable, but the merchandise shall remain subject in the zone to such requirements as are necessary for the enforcement of section 562 and other pertinent Customs laws.

§ 146.14 Merchandise transiting a zone.

The following procedures are applicable when merchandise is to be unladen from any carrier in the zone for immediate transfer to Customs territory, or if it is to be transferred from Customs territory through the zone for immediate lading on any carrier in the zone:

(a) *Application.* Application for permission to lade or unlade shall be filed with the district director on Customs Form 3171 prior to transfer of the merchandise into the zone.

(b) *Permit.* The district director shall permit the transfer unless he has reason to believe that the merchandise will not be moved promptly from the zone or made the subject of an application for zone status on Customs Form 214 in accordance with § 146.12.

(c) *Treatment of merchandise.* Upon the issuance of a permit to lade, or unlade, the merchandise shall not be considered within the purview of the Act but shall be treated as though the lading or unlading were in Customs territory.

(d) *Failure to lade merchandise without delay.* Merchandise brought into a zone for lading on a carrier but not laden without a delay which will endanger the revenue must be made the subject of an application for zone status on Customs Form 214 in accordance with § 146.12 or be removed from the zone. **[TD 82-145.]**

§ 146.15 Certificate of arrival of merchandise.

Whenever a certificate as to the arrival of any merchandise in a zone is required by a Federal agency, the district director shall issue the certificate, properly describing and identifying the merchandise involved.

Subpart C—Status of Merchandise in a Zone

§ 146.21 Privileged foreign merchandise.

(a) *Merchandise subject to the provisions of this section.* Foreign merchandise which has not been manipulated or manufactured so as to effect a change in tariff classification shall be given status as privileged foreign merchandise on proper application to the district director.

(b) *Application.* Each application for this status shall be made on Customs Form 214 for admission of the merchandise into a zone or at any time thereafter before the merchandise has been manipulated or manufactured in the zone in a manner which has effected a change in tariff classification. **[TD 82-145.]**

(c) *Zone Customs entry.* Each applicant for such status shall file a zone Customs entry on Customs Form 7502 with his application.

(1) *Evidence of right to make entry.* The original of a properly approved application on Customs Form 214 is acceptable as the equivalent of a bill of lading or carrier's certificate to identify the applicant on such Customs Form 214 as the consignee of the merchandise and its owner for Customs purposes, except that such person may transfer the right to withdraw such merchandise from the zone to Customs territory in accordance with Subpart E of this part. **[TD 82-145.]**

(2) *Preparation, filing, and processing of the entry.* The procedure in connection with the preparation, filing, and processing of the entry, including the making of notations on invoices, the designation of examination packages or quantities, and the examination and appraisement of the merchandise shall be the same as that prescribed in the case of an entry for warehouse made in Customs territory (see Part 144 of this chapter), except that no bond shall be required. **[TD 75-209.]**

(3) *Procedure upon acceptance of the entry.* Upon acceptance of the entry the district director shall have the merchandise appraised, classified taxes determined, and duties liquidated promptly.

(i) *Appraisement and tariff classification.* The merchandise shall be subject to appraisement and tariff classification according to its condition and quantity, and to the rates of duty and tax in force, on the date of filing, in complete and proper form, the request for privileged foreign status on Customs Form 214 and the zone Customs entry which is required to accompany it. **[TD 82-145.]**

(ii) *Basis of valuation.* The value of the merchandise shall be determined in accordance with sections 402, 402a, and 503 of the Tariff Act of 1930, as amended (19 U.S.C. 1401a, 1402, 1503), and related provisions of law. For all Customs purposes, the date of exportation of the merchandise from the country whence it was exported to the United States is the date of its final departure from that country, in accordance with § 152.1(c) of this chapter. **[TD 73-175.]**

(iii) *Amendment of value.* The value declared in any zone Customs entry for merchandise may be amended in accordance with the provision of section 487, Tariff Act of 1930 (19 U.S.C. 1487), and the regulations thereunder (see § 141.90(c) of this chapter). **[TD 73-175.]**

(iv) *Merchandise subject to tariff-rate import quotas.* Entries for merchandise subject to tariff-rate import quotas shall be liquidated only at the higher or non-quota rate.

(v) *Determination of taxes.* The taxes to be determined are those of the same nature as are indicated in the liquidation of entries of imported merchandise in Customs territory.

(d) *Status as privileged foreign merchandise binding.* A status as privileged foreign merchandise and the consequent determination of taxes and liquidation of duties cannot be abandoned. The taxes and duties remain applicable to the merchandise even if changed in form by manipulation or manufacture, except in the case of recoverable waste (see § 146.48), as long as the merchandise remains within the purview of the Act. However, privileged foreign merchandise may be exported or withdrawn for supplies, equipment, or repair material of vessels or aircraft without the payment of the determined taxes and liquidated duties, in accordance with §§ 146.41, 146.42, and 146.45(d).

(e) *Procedures for protest.* The requirements, privileges, and procedures of notices of appraisement, posting of liquidations, and protests against decisions of the district director relating to privileged foreign merchandise are the same as those prescribed in the case of merchandise covered by an entry for warehouse in Customs territory. [TD 70-181.]

(f) *Permission to manipulate, manufacture, or exhibit.* Application may be made pursuant to § 146.32 for permission to manipulate, manufacture, or exhibit the merchandise before taxes have been determined and duties liquidated thereon, but in such case the examination for purposes of appraisement must be completed, or the packages or samples required for such examination must be segregated, before the district director approves the application.

§ 146.22 Privileged domestic merchandise.

(a) *Merchandise subject to the provisions of this section.* Privileged domestic status may be granted to merchandise:

(1) The growth, product, or manufacture of the United States on which all internal-revenue taxes, if applicable, have been paid;

(2) Previously imported and on which duty and/or tax has been paid; or

(3) Previously admitted free of duty and tax.

(b) *Application.* Application for privileged domestic status shall be included in the application on Customs Form 214 (§ 146.12) to transfer the merchandise into the zone, but the documents in support of the application described in § 146.12(b) are not required. [TD 82-145.]

(c) *Domestic packing and repair materials.* If the district director is satisfied that the revenue will be protected, and the rights of importers will not be prejudiced, he may permit the transfer to a zone of domestic packing and repair materials and related articles without requiring an application on Customs Form 214. [TD 82-145.]

(d) *Return of merchandise to Customs territory.* Upon compliance with this section and § 146.44, any of the foregoing merchandise may subsequently be returned to Customs territory free of quotas, duty, or tax.

§ 146.23 Nonprivileged foreign merchandise.

All of the following shall have the status of nonprivileged foreign merchandise:

(a) Foreign merchandise properly in a zone which does not have the status of privileged foreign merchandise or of zone-restricted merchandise;

(b) Waste recovered from any manipulation or manufacture of privileged foreign merchandise in a zone; and

(c) Domestic merchandise in a zone which by reason of noncompliance with these regulations has lost its identity as domestic merchandise and will be treated as foreign merchandise if transferred to Customs territory. Any domestic merchandise shall be deemed to have lost its identity if the district director determines that it cannot be identified positively by Customs officers as domestic merchandise on the basis of their examination of the articles and their consideration of any proof that may be submitted promptly by a party in interest.

§ 146.24 Nonprivileged domestic merchandise.

All merchandise which could have obtained the status of privileged domestic merchandise but for which no application for such status has been approved (not including any merchandise within the purview of § 146.23(c)) shall have the status of nonprivileged domestic merchandise.

§ 146.25 Zone-restricted merchandise.

(a) *Merchandise subject to the provisions of this section.* Articles taken into a zone from Customs territory for the sole purpose of exportation, destruction (except destruction of distilled spirits, wines, and fermented malt liquors), or storage shall be given zone-restricted status on proper application. Such articles may not be returned to Customs territory for domestic consumption except where the Board deems such return to be in the public interest (see § 146.47).

(b) *Application.* Application for zone-restricted status shall be included in the application on zone Form D to transfer the merchandise into the zone as provided for in § 146.12.

(c) *Merchandise considered exported*—(1) *For Customs purposes.* If the applicant desires a zone-restricted status in order that the merchandise may be considered exported for the purpose of any Customs law, all pertinent Customs requirements relating to actual exportations shall be complied with as though the admission of the merchandise into the zone constituted a lading on an exporting carrier at a port of final exit from the United States. Any declaration or form required for actual exportation shall be modified to show that the merchandise has been deposited in a zone in lieu of actual exportation, and a copy of the approved Customs Form 214 may be accepted in lieu of any proof of shipment required in cases of actual exportation.

(2) *For other purposes.* If the merchandise is to be considered exported for the purpose of any Federal law other than the Customs laws, the district director shall be satisfied that all pertinent laws, regulations, and rules administered by the Federal agency concerned have been complied with before he approves the application on Customs Form 214. [TD 82-145.]

(d) *Merchandise entered for warehousing transferred to a zone.* Merchandise entered for warehousing and transferred to a zone, other than temporarily for manipulation and return to Customs territory as provided for in § 146.13, shall have the status of zone-restricted merchandise when admitted into the zone. The application on Customs Form 214 shall state that zone-restricted status is desired for the merchandise. [TD 82-145.]

Subpart D—Handling of Merchandise in a Zone

§ 146.31 Customs control of merchandise in a zone.

(a) No merchandise shall be removed from a zone in any manner or for any purpose except as provided for in the regulations in this part.

(b) If the district director deems it necessary for the protection of the revenue, he may require segregation of any merchandise he determines to be subject to special risks to the revenue.

(c) The grantee shall keep the district director currently informed as to the location of any merchandise in the zone which is not within the purview of paragraph (b) of this section, and shall notify the district director promptly of any loss or damage that may occur to any merchandise in the zone.

§ 146.32 Manipulation, manufacture, or exhibition in a zone.

(a) *Application*. Permission for manipulation, manufacture, or exhibition of merchandise in a zone may be obtained by filing with the district director an application on Customs Form 216. No such operation shall be carried on until the district director has approved the application. The application shall include:

(1) A full description of the proposed operation;

(2) A designation of the exact place in the zone where the operation is to be performed;

(3) The identification of the involved merchandise by lot number, marks and numbers of the packages, description, quantity, and zone status; and

(4) In the case of manipulation or manufacture, a statement as to whether articles with one zone status are to be packed, commingled, or combined with articles having a different zone status. **[TD 82-145.]**

(b) *Approval of application*. The district director shall approve the application unless the proposed operation would be in violation of the fourth or fifth proviso to section 3 of the Foreign-Trade Zones Act, as amended, 19 U.S.C. 81c, or the place designated for its performance is not suitable for preventing confusion as to the identity or status of the merchandise and for safeguarding the revenue.

(1) *Fourth proviso*. The proviso reads as follows:

> That under the rules and regulations of the controlling Federal agencies, articles which have been taken into a zone from Customs territory for the sole purpose of exportation, destruction (except destruction of distilled spirits, wines, and fermented malt liquors), or storage shall be considered to be exported for the purpose of—
>
> (a) The draw-back, warehousing, and bonding, or any other provisions of the Tariff Act of 1930 as amended, and the regulations thereunder; and
>
> (b) The statutes and bonds exacted for the payment of draw-back, refund, or exemption from liability for internal-revenue taxes and for the purposes of the internal-revenue laws generally and the regulations thereunder.
>
> Such a transfer may also be considered an exportation for the purposes of other Federal laws insofar as Federal agencies charged with the enforcement of those laws deem it advisable.
>
> Such articles may not be returned to Customs territory for domestic consumption except where the Foreign-Trade Zones Board deems such return to be in the public interest, in which event the articles shall be subject to the provisions of paragraph 1615(f) of section 1201 of this title: * * *.

(2) *Fifth proviso*. The proviso reads as follows:

> That no operation involving any foreign or domestic merchandise brought into a zone which operation would be subject to any provision or provisions of section 1807 of Title 26 and chapter 15-17, 21, 23-26, or 32 of Title 26, if performed in Customs territory, or involving the manufacture of any article provided for in paragraphs 367 and 368 of section 1001 of this title, shall be permitted in a zone except those operations (other than rectification of distilled spirits and wines, or the manufacture or production of alcoholic products unfit for beverage purposes) which were permissible under this chapter prior to July 1, 1949: * * *.

(For current reference to title 19 and 26 of the United States Code, see notes following text of 19 U.S.C. 81c)

(c) *Appeal of adverse ruling*. If the application is denied by the district director for any reason, the applicant or the grantee may appeal the adverse ruling to the Board. If any revenue protection considerations are involved in such an application, the Board shall be guided by the determinations of the Secretary of the Treasury with respect to them.

(d) *Records to be maintained*—(1) *Privileged merchandise*. When any privileged merchandise is to be manipulated in any way or manufactured, the person performing the operation shall maintain records containing the following information:

(i) A full identification, as specified in paragraph (a) of this section, of each lot of privileged merchandise used in the operation;

(ii) The unit and total values of each such lot, the values in the case of privileged foreign merchandise to be those declared in the zone Customs entry (§ 146.21(c)), including any amendment thereof;

(iii) The commercial name or description of the product resulting from the operation, or of each such product if there are more than one;

(iv) The quantity of such product or of each such product, as the case may be;

(v) The commercial name or description and quantity of each kind of waste recovered from the operation; and

(vi) The description (i.e., evaporation, leakage, spillage, dust, etc.) and quantity of each kind of loss resulting from the operation.

(2) *Nonprivileged merchandise*. If any nonprivileged merchandise is to be used in the operation, records shall be maintained containing a full identification, as specified in paragraph (a) of this section, and the unit and total values of each lot of the merchandise used in the operation.

§ 146.33 Destruction of merchandise in a zone.

(a) *Application*. Each application to destroy merchandise in a zone shall be filed with the district director on Customs Form 216. The application shall include:

(1) A description of the proposed method of destruction;

(2) A designation of the place where the destruction is to be accomplished; and

(3) The identification of the involved merchandise by lot number, marks and numbers of the packages, description, quantity, and zone status. **[TD 82-145.]**

(b) *Approval of application and procedure for destruction of merchandise*. The destruction of distilled spirits, wines, and fermented malt liquors having a zone-restricted status may not be authorized in view of the exception in the fourth proviso to section 3 of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81c). In any other case, if the district director is satisfied that the destruction will be effective and that the revenue will be adequately protected, he shall approve the application. If proper destruction cannot be effectively accomplished within the zone, the district director may permit it to be done elsewhere, in whole or in part, under such conditions as he shall specify for protecting the revenue. Any residue of destruction which is entirely worthless may be removed to Customs territory for disposal.

Subpart E—Removal of Merchandise From a Zone.

§ 146.41 Direct exportation from a zone.

Regardless of its zone status, any merchandise in a zone may be exported directly therefrom upon compliance with the procedure prescribed in § 146.44 for the transfer of privileged domestic merchandise to Customs territory.

§ 146.42 Supplies, equipment, and repair material for vessels or aircraft.

(a) *Applicability*. Any article which may be withdrawn duty and tax free in Customs territory under section 309 or 317 of the Tariff Act of 1930, as amended (19 U.S.C. 1309, 1317) and § § 10.59 through 10.65 of this chapter may similarly be withdrawn from a zone, regardless of its zone status, under said statutes and regulations. Priviledged domestic merchandise is not subject to the provisions of this section and may be withdrawn from a zone in accordance with the provisions of § 146.44.

(b) *Articles for delivery within zone where withdrawn*. The withdrawal of articles provided for in paragraph (a) of this section for delivery within the zone where withdrawn to a qualified vessel or aircraft, or as ground equipment of a qualified aircraft, shall be on Customs Form 7512 (see § 10.60 of this chapter). [TD 82–145.]

(1) *Who may make the withdrawal*. The withdrawal of articles composed in whole or in part of privileged foreign merchandise shall be made by the person identified on Customs Form 214 as the consignee (see § 146.21(c)(1)). The withdrawal of all other articles under this section shall be made by the person designated as the consignee by the written authorization of the grantee.

(2) *Supporting documents*—(i) *Description*. The withdrawal shall be supported by a description of the articles similar to that provided for in § 146.44(a).

(ii) *Bond*. A bond on Customs Form 7557, 7559, or 7595 shall be required with the withdrawal.

(3) *Release of articles*. Upon acceptance of the withdrawal, the district director shall release the merchandise to the grantee for delivery to the qualified vessel or aircraft in the zone.

(c) *Articles for delivery outside zone where withdrawn*. The withdrawal of articles provided for in paragraph (a) of this section for delivery at a place outside the zone to a qualified vessel or aircraft, or as ground equipment of a qualified aircraft, shall be on Customs Form 7512. (See § 10.60 of this chapter.)

(1) *Who may make the withdrawal*. The withdrawal of privileged foreign merchandise which has not been mixed, combined, or repacked in the zone or of a product of a manipulation or manufacture in a zone composed of or derived from privileged merchandise only, whether all foreign, or partly foreign and partly domestic, shall be made by the person named on Customs Form 214 as the consignee or by a transferee designated on the withdrawal and approval by the grantee. (See § 146.45(b)(2)). The withdrawal of other articles under this section shall be made by the person designated by the grantee on Customs Form 215 as the consignee. Except for articles described in the first sentence of this paragraph the provisions of § 146.47 (b) through (f) and § 146.48(b) relating to constructive transfer are applicable, whether or not the merchandise is zone restricted.

(2) *Bond*. The withdrawal shall be supported by a bond on Customs Form 7557, 7559, or 7595.

(3) *Acceptance of withdrawal and release of merchandise*. Upon acceptance of the withdrawal of the district director shall note thereon the status of the merchandise and shall release the merchandise to the grantee for delivery to the bonded cartman, lighterman, or carrier. [TD 82–145.]

§ 146.43 Transfer of merchandise from one zone to another.

(a) *Privileged domestic merchandise*. The transfer of privileged domestic merchandise from one zone to another is not subject to Customs control except that the removal of the merchandise from the first zone and its admission into the zone of destination shall be in accordance with § § 146.44 and 146.12.

(b) *Other merchandise*—(1) *Procedure*. The transfer of merchandise, other than privileged domestic merchandise, from a zone at one port of entry to a zone at another port shall be by bonded carrier under an entry for immediate transportation on Customs Form 7512. All copies of the entry for immediate transportation shall bear a notation that the merchandise is being taken from the first zone for the purpose of transfer to the second zone. Privileged foreign merchandise which has not been mixed, combined, or repacked in the zone and products of a manipulation or manufacture in a zone composed of or derived from privileged merchandise, whether all foreign, or partly foreign and partly domestic, shall be transferred from the zone in accordance with § 146.45(c) (1)–(4) and admitted to the second zone in accordance with § 146.12. The transfer of other merchandise from the first zone into Customs territory and its admission into the zone of destination shall be in accordance with § § 146.48(b) and 146.12.

(2) *Forwarding of history of the merchandise*. Upon removal of merchandise as specified in paragraph (b)(1) of this section from the first zone, the district director of the port where such zone is located shall immediately forward to the district director of the port where the zone of destination is located a history of the merchandise as shown by the records of the first zone.

§ 146.44 Transfer of privileged domestic merchandise into Customs territory.

(a) *Submission of description of transaction*. When privileged domestic merchandise which has not been mixed, combined or repacked in a zone with merchandise having a different zone status is to be transferred from the zone to Customs territory, the grantee shall submit to the district director, in triplicate, a description of the proposed transaction signed by him which shall include:

(1) The proposed date of transfer;

(2) The identification of the carrier;

(3) The destination of the shipment;

(4) Identification of the merchandise by zone storage location, lot number, marks and numbers of packages, description, quantity, and zone status; and

(5) A notation as to any shortage or damage.

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If a form of tally prepared by the grantee for its own purposes contains the necessary information, it may be accepted in lieu of the required description.

(b) *Permit of delivery.* If the transfer is approved by the district director, the original of the description shall be so stamped to serve as a permit of delivery. The original and one copy shall be returned to the grantee. No document other than the permit of delivery shall be required to release the merchandise to the grantee and authorize its transfer into Customs territory.

§ 146.45 Transfer of privileged foreign merchandise into Customs territory.

(a) *Merchandise subject to the provisions of this section.* The provisions of this section are applicable to privileged foreign merchandise which has not been mixed, combined, or repacked in a zone.

(b) *Withdrawal for consumption at port where zone is located*—(1) *Application for transfer.* When merchandise subject to the provisions of this section is to be transferred to Customs territory for consumption, a zone withdrawal shall be made on Customs Form 7505 as an application for the transfer.

(2) *Who may make the withdrawal.* The withdrawal shall be made by the person identified on Customs Form 214 as the consignee (see § 146.21(c)(1)) or by a transferee designated by an endorsement on Customs Form 7505 and approved by the grantee.

(3) *Bond.* The zone withdrawal shall be supported by a bond on Customs Form 7551, 7553, or other appropriate form. A bond shall not be required when all the merchandise to be transferred to Customs territory has been inspected, examined, and appraised, has been found to comply with all laws and regulations governing its admission into the commerce of the United States, and there have been produced all documents for the production of which a bond is required by law or regulations if not filed at the time of entry.

(4) *Payment of duties and taxes.* The applicant shall pay the liquidated duties and determined taxes, as assessed in the liquidation of the zone Customs entry (§ 146.21(c)), on the quantity of merchandise to be transferred. If the pertinent zone Customs entry has not been liquidated, estimated duties and taxes shall be deposited.

(5) *Release of merchandise.* Upon acceptance of the withdrawal, the district director shall release the merchandise to the grantee for delivery.

(c) *Withdrawal for transportation to another port for withdrawal for consumption*—(1) *Application for transfer.* When merchandise subject to the provision of this section is to be transferred to Customs territory for transportation to another port for withdrawal for consumption, a zone withdrawal from transportation clearly indicating the status of the merchandise shall be made on Customs Form 7512 as an application for the transfer.

(2) *Who may make the withdrawal for transportation.* The withdrawal shall be made by the person identified on Customs Form 214 as the consignee (see § 146.21(c)(1)) or by transferee designated by an endorsement on Customs Form 7512 and approved by the grantee.

(3) *Certification by district director at zone port.* The district director at the zone port shall issue a certificate, in triplicate, describing the merchandise in its present condition and certifying the amount of duties and taxes applicable to the shipment. The duplicate copy of such certificate shall be given to the withdrawer.

(4) *Release of merchandise for transportation.* Upon acceptance of the withdrawal, the district director shall release the merchandise to the grantee for delivery to the bonded carrier.

(5) *Withdrawal for consumption at port of destination.* A withdrawal for consumption shall be made at the port of destination on Customs Form 7519 by the person identified on Customs Form 214 as the consignee (see § 146.21(c)(1)) or by a transferee designated on the withdrawal and approval by the grantee. The withdrawal for consumption shall be supported by the duplicate copy of the certificate described in paragraph (c)(3) of this section and also by a bond on Customs Form 7551, 7553, or other appropriate form, when required, pursuant to paragraph (b)(3).

(6) *Payment of duties and taxes.* The applicant shall pay the liquidated duties and determined taxes, as assessed in the liquidation of the zone Customs entry (§ 146.21(c)), on the quantity of merchandise being withdrawn. If the zone Customs entry has not been liquidated, estimated duties and taxes shall be deposited.

(d) *Withdrawal for transfer into Customs territory for exportation.* When merchandise subject to the provisions of this section is to be transferred to Customs territory for exportation, a withdrawal for exportation, or for transportation and exportation, shall be made on Customs Form 7512 by the person identified on Customs Form 214 as the consignee (see § 146.21(c)(1)) or by a transferee designated by an endorsement on Customs Form 7512 and approved by the grantee. Upon acceptance of the withdrawal the district director shall note the status of the merchandise on the document, and release the merchandise to the grantee for delivery to the carrier. **[TD 82–145.]**

§ 146.46 Transfer of products of manipulation or manufacture of privileged merchandise into Customs territory.

(a) *Merchandise subject to the provisions of this section.* The provisions of this section are applicable to products of manipulation or manufacture in a zone composed of or derived from privileged merchandise only, whether all foreign, or partly foreign and partly domestic.

(b) *Withdrawal for consumption at port where zone is located.* When products subject to the provisions of this section are to be transferred to Customs territory for consumption, a zone withdrawal shall be made on Customs Form 7505 as an application for the transfer, and the requirements of this paragraph and of § 146.45(b) shall be applicable.

(1) *Documents required in support of the withdrawal*—(i) *Statement.* A statement in the form of an invoice containing the information required by § 146.32(d)(1) shall be filed with the withdrawal.

(ii) *Certificate of identification.* When necessary to support the withdrawal, application may be made to the district director in a letter of application for a certificate of identification containing information sufficient to properly identify the merchandise, including the zone lot number, number of packages, description, quantity, measurement, value, and zone status of the merchandise used in the manipulation or manufacture.

(2) *Conditions for acceptance of withdrawal.* The district director shall not accept zone withdrawals for products of manipulation or manufacture of privileged foreign merchandise until he has definitely established that the merchandise actually exists in the zone in its final form as described in the withdrawal and that all other documents required to be submitted with the withdrawal have been received.

(c) *Withdrawal for transportation to another port for withdrawal for consumption.* When products subject to the provisions of this section are to be transferred to Customs territory for transportation to another port for withdrawal for consumption, a zone withdrawal for transportation clearly indicating the status of the merchandise shall be made on Customs Form 7512 as an application for the transfer. The provisions of paragraph (b) (1) and (2) of this section and the procedure prescribed in § 146.45(c) (2) through (6) shall be applicable.

(d) *Withdrawal for transfer into Customs territory for exportation.* When products subject to the provisions of this section are to be transferred to Customs territory for exportation, the procedure prescribed in § 146.45(d) shall be applicable.

(e) *Articles produced or manufactured in a zone returned to Customs territory after exportation.* Articles produced or manufactured in a zone and exported without having been transferred to Customs territory other than for exportation or for transportation and exportation shall, on their return to Customs territory, be subject to the duties and taxes applicable to like articles of wholly foreign origin, unless it is conclusively established that they were produced or manufactured exclusively with the use of privileged domestic merchandise, the identity of which was maintained in accordance with the pertinent provisions of these foreign-trade zone regulations, in which case they shall be subject to the pertinent provisions of schedule 8, part 1 of the Tariff Schedules of the United States. **[TD 82–145.]**

§ 146.47 Transfer of zone-restricted merchandise into Customs territory.

(a) *Types of entry.* Zone-restricted merchandise may be returned to Customs territory only for entry for exportation, for entry for transportation and exportation, for destruction (except destruction of distilled spirits, wines and fermented malt liquors), for transfer from one zone to another, or for delivery to a qualified vessel or aircraft or as ground equipment of a qualified aircraft under section 309 or 317 of the Tariff Act of 1930, as amended, unless the Board has ruled that the return of the merchandise to Customs territory for domestic consumption is in the public interest. If the return of zone-restricted merchandise to Customs territory for domestic consumption has been ruled by the Board to be in the public interest, it may be entered for consumption, for warehousing, or for immediate transportation without appraisement, unless the Board has specified which of these forms of entry shall be made.

(b) *Application for constructive transfer to Customs territory.* When zone-restricted merchandise is to be transferred to Customs territory, the grantee shall file an application with the district director on Customs Form 215 naming the person who will be deemed the consignee of the merchandise with the right to make entry or withdrawal therefor upon its transfer to Customs territory. The application shall include a complete identification of the merchandise as it entered the zone, including lot numbers, marks and numbers of the packages, status of each lot, description, and quantities. If any change in respect of any of these items of identification occurred while the merchandise was in the zone, the current information with respect to each such item shall also be stated. The district director shall not accept a term application on Customs Form 215. **[TD 82–145.]**

(c) *Constructive transfer.* Upon the approval by the district director of an application on Customs Form 215, the merchandise shall be deemed to have been transferred to Customs territory but without physical removal from the zone. For all Customs purposes the merchandise shall be considered to have been imported into Customs territory at the time of this constructive transfer. The district director shall note on the application the date of constructive transfer and the zone status of the merchandise. The constructively transferred merchandise shall be marked or labeled with the initials "C.T."

(d) *Restoration to zone status.* The merchandise may be restored to zone status after it has been constructively transferred to Customs territory and before the expiration of the time within which entry or withdrawal must be made (see paragraph (e)(2) of this section), if:

(1) A new zone Form D is filed and the same procedure followed as if the merchandise had then first arrived in the zone from or through Customs territory (see § 146.12). The zone grantee shall be deemed the carrier which brought the merchandise into the port; or

(2) The applicant arranges for the redelivery to the district director, prior to the filing of a Customs entry or withdrawal, of the grantee's copy of the Customs Form 215 with a request that it be canceled. **[TD 82–145.]**

(e) *Customs entry or withdrawal and time limitation.* (1) The original of Customs Form 215, when approved by the district director and endorsed by him with the date of constructive transfer and the zone status of the merchandise, shall be accepted as the equivalent of a bill of lading or carrier's certificate to identify the person named in such Customs Form 215 as the consignee of the merchandise and its owner for Customs purposes with the right to make entry or withdrawal. **[TD 82–145.]**

(2) A Customs entry or withdrawal shall be filed in proper form before 5 p.m. of the second working day after the date of constructive transfer of the merchandise. The time may be extended for such longer period as may be specified in a lay-order issued by the district director upon the filing of a written application on Customs Form 3189 by the grantee, or by the named consignee if approved by the grantee. If a Customs entry or withdrawal in proper form is not filed within the time limit, the merchandise shall be considered as having been returned from constructive Customs territory to the zone.

(3) If the return of zone-restricted merchandise to Customs territory for consumption has been ruled by the Board to be in the public interest, the entry shall be endorsed by the district director to show the authority under which it was made, and that the merchandise is subject to the provisions of schedule 8, part 1 of the Tariff Sched-

ules of the United States. Upon acceptance of an entry or withdrawal for any other zone-restricted merchandise, the entry shall be endorsed by a Customs officer to show that actual exportation of the merchandise is required by the fourth proviso to section 3 of the Act as amended, and the withdrawal endorsed to require delivery to a qualified vessel or aircraft or as ground equipment of a qualified aircraft under section 309 or 317 of the Tariff Act of 1930, as amended. (See § 146.42.)

(f) *Release of merchandise.* When a consumption entry is accepted for zone-restricted merchandise the district director shall release the merchandise to the grantee for delivery to the consignee. When any other entry or withdrawal is accepted for such merchandise, the release of the merchandise by the district director for physical removal to the designated destination in Customs territory or for direct exportation shall be in accordance with the Customs Regulations as to merchandise imported into Customs territory, the zone grantee to be considered as the importing carrier. **[TD 82-145.]**

§ 146.48 Treatment of merchandise not elsewhere provided for in this subpart.

(a) *Merchandise not elsewhere provided for in this subpart includes.* Merchandise not elsewhere provided for in this subpart includes the following:

(1) Articles composed entirely of, or derived entirely from, nonprivileged merchandise, foreign or domestic.

(2) Articles composed in part of, or derived in part from, nonprivileged merchandise, domestic or foreign, and in part of or from privileged merchandise, domestic or foreign.

(3) Recoverable waste resulting from the manipulation or manufacture in a zone of privileged foreign merchandise.

(b) *Constructive transfer.* When articles subject to the provisions of this section are to be transferred from a zone to Customs territory, the procedure provided for in § 146.47(b) through (f) shall be followed, except that if the entry has not been filed in proper form before the expiration of the time allowed for entry in § 146.47(e)(2), the merchandise shall be deposited in general order storage in Customs territory.

(c) *Entry for consumption or warehousing.* Articles subject to the provisions of this section may be transferred from a zone for entry for consumption or, except in the case of articles composed of or derived in part from privileged foreign merchandise, for entry for warehousing subject to the treatment specified in paragraph (e) of this section.

(d) *Supporting statement and certificate.* There shall be filed with each entry for articles described in paragraph (a)(2) of this section a statement in the form of an invoice containing the information specified in § 146.32(d)(1). When necessary to support the entry, application may be made for a certificate in accordance with the procedure set forth in section 146.46(b)(i)(ii) of this part covering identification as shown by the Customs records of any privileged domestic or privileged foreign merchandise in the articles. **[TD 82-145.]**

(e) *Appraisement and tariff classification.* (1) Merchandise subject to the provisions of this section, upon transfer from a zone and entry for consumption or for warehousing, either immediately or after transportation in bond, shall be subject to appraisement and tariff classification in accordance with its character and condition at the time of its constructive transfer to the customs territory and, except for any different rates applicable to any privileged foreign merchandise therein, to the rate or rates of duty and tax in force at the time entry for consumption or withdrawal from warehouse for consumption is made (see sections 141.68 and 141.69 of this chapter).

(2) The value of the merchandise described in paragraph (e)(1) shall be determined in accordance with sections 402, 402a, and 500, Tariff Act of 1930, as amended (19 U.S.C. 1401a, 1402, 1500), and the related provisions of law. However, the cost of fabrication or other processing, and the general expenses and profit, related to zone operations shall be excluded when determining the dutiable value of an article produced entirely from nonprivileged merchandise (foreign or domestic), or from a combination of privileged and nonprivileged merchandise (foreign or domestic). All other expenses incurred in the zone incidental to placing the article in condition, packed ready for transfer, and freight, insurance, and similar costs incurred after the article is packed ready for transfer into the customs territory also shall be excluded in determining dutiable value. **[TDs 73-175, 80-87.]**

(f) *Liquidation.* The consumption or warehouse entry covering a product provided for in paragraph (a) of this section shall be liquidated in accordance with Part 159 of this chapter, except that in the case of articles described in paragraph (a)(2) of this section adjustment shall be made for that part of the product which consists of or has been derived from privileged merchandise. **[TD 73-175]**

PART 147—TRADE FAIRS

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Authority: R.S. 251, secs. 623, 624, 46 Stat. 759, as amended, secs. 2-7, 73 Stat. 18, 19; 19 U.S.C. 66, 1623, 1624, 1751-1756.

Source: T.D. 70-134, 35 FR 9268, June 13, 1970, unless otherwise noted.

§ 147.0 Scope.

This part governs the entry of merchandise intended for exhibition or for use in constructing, installing, or maintaining foreign exhibits at trade fairs which have been so designated by the Secretary of Commerce. It also contains provisions concerning Customs supervision of the merchandise, and the disposition of the merchandise after the fair has closed. The entry of articles which may be admitted free of duty under other provisions of this chapter may be governed by those provisions rather than the regulations in this part. **[TD 70-134]**

Subpart A—General Provisions

§ 147.1 Definitions.

The following are general definitions for the purposes of Part 147:

(a) *The Act.* "The Act" means the Trade Fair Act of 1959. (Secs. 2-7, 73 Stat. 18, 19; 19 U.S.C. 1751-1756.)

(b) *Fair.* "Fair" means a fair, exhibition, or exposition designated by the Secretary of Commerce pursuant to the Trade Fair Act.

(c) *Fair operator.* "Fair operator" means the party named by the Secretary of Commerce as the operator of the fair.

(d) *Port.* "Port" means the port at which the fair is to be held, or if the fair is not to be held within the limits of a port, the port nearest to the location of the fair which is in the same Customs district as the fair.

(e) *Closing date.* "Closing date" means the date designated by the Secretary of Commerce as the date when the fair will close, including any extension granted by the Secretary of Commerce, or, if the fair closes earlier, the date on which the fair actually closes.

(f) *Articles for a fair.* "Articles for a fair" includes, but is not limited to:

(1) Actual exhibit items;

(2) Pamphlets, brochures, and explanatory material in reasonable quantities relating to foreign exhibits at a fair;

(3) Material for use in constructing, installing, or maintaining foreign exhibits at a fair.

§ 147.2 Articles which may be entered for a fair.

(a) *General.* Any article imported or brought into the United States may be entered under bond under the regulations of this part for the purpose of exhibition at a fair, or for use in constructing, installing, or maintaining foreign exhibits at a fair, if no duty or internal revenue tax has been paid, and the article is:

(1) In a foreign-trade zone; or

(2) Covered by a Customs exhibition bond provided for in Schedule 8, Part 5B, Tariff Schedules of the United States; or

(3) In continuous Customs custody, including but not limited to articles:

(i) Imported or brought into the United States for the purpose of direct entry at a particular fair;

(ii) In Customs bonded warehouses;

(iii) Unentered under the Customs laws and held in general order pending entry or exportation;

(iv) On exhibition at another fair designated by the Secretary of Commerce.

(b) *Exception.* Articles which have been entered under Schedule 8, Part 5C, Tariff Schedules of the United States, may not be entered under the regulations of this part.

§ 147.3 Bond required.

The fair operator shall furnish for the approval of the district director a bond in an amount to be determined by the district director. No other bond shall be required at the time of making entry for a fair. The bond shall be in the following form:

Trade Fair Bond

Know All Men by These Presents, That ____________, of ____________, as principal, and ____________, of ____________, and ____________, of ____________, as sureties, are held and firmly bound unto the United States of America in the sum of ____________ dollars ($ ______), for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally firmly by these presents.

Witness our hands and seals this _____ day of _____, 19—.

Whereas, pursuant to the provisions of the Trade Fair Act of 1959, 73 Stat. 18; 19 U.S.C. 1751-1756, the Secretary of Commerce has approved an application by the principal hereon for the operation of a fair to be known as

_____

(Insert exact name of fair)

at _____; and

(City and State)

Whereas, pursuant to the foregoing Act, imported articles may be imported or brought into the United States without the payment of duties, taxes, fees, charges, or exactions, for purposes of exhibition at the designated fair, or for use in constructing, installing, or maintaining foreign exhibits at such fair, under such regulations as the Secretary of the Treasury shall prescribe;

Now, therefore, the condition of this obligation is such. That—

(1) If the above-bounden principal shall comply in all respect with the provisions of the foregoing Act and the regulations issued by the Secretary relating to the exhibition or use of any article imported or brought into the United States for the designated fair; and shall receive for exhibition or use at such fair only such articles as may be permitted by law and regulations to be deposited therein; and shall safely keep or use the same therein all in accordance with the purposes authorized by law, and shall not remove, nor suffer to be removed, any article from the fair premises without lawful permit and without the presence of the Customs officer in charge;

(2) And if the above-bounden principal shall pay to the district director of Customs, when demanded by him, all unpaid duties, taxes, fees, charges, or exactions found legally due in connection with all articles entered or brought into the United States for the fair under the provisions of the designated Act and charged against this bond; and if in respect of any of the articles released from Customs custody shall redeliver or cause to be redelivered to the order of the district director of Customs, upon proper demand made at any time, any and all articles found not to comply with the law and regulations governing their admission into the commerce of the United States, and shall, after proper notice, mark, label, clean, fumigate, destroy, export, and do any and all other things in relation to said articles that may be required to secure the protection of the revenue and compliance with the Trade Fair Act referred to in the rectial clause of this obligation and with all applicable Customs and related laws; it being expressly understood and agreed that the liability under this bond shall extend to all cases where any of the articles entered for exhibition or use are lost or stolen, whether or not the said loss or theft shall result from the fault of said principal;

(3) And if the above-bounden principal shall pay on demand to the district director of Customs, the actual and necessary Customs charges for labor, services, and other expenses in connection with the entry, examination, appraisement, release, or custody of the imported articles, together with the compensation of the Customs officers and employees on duty at or assigned to the fair premises in connection with the accounting for, custody of, and supervision over, the articles entered pursuant to the designated Act, including overtime compensation of Customs officers and employees assigned to duty at night or on Sunday or a holiday;

(4) And if the above-bounden principal, when an article is entered from the Fair for exportation, shall cause the said article to be actually exported from the United States and not relanded therein, and if proof of exportation from the United States be furnished to the said district director in the form and within the time required by law or regulations, or within any lawful extension of such time; or in lieu of exportation, if the said article shall be destroyed or abandoned within the period fixed by law, or, in default thereof, if the obligors shall pay to the district director the full amount of duties, taxes, fees, charges, and exactions which may be found legally due on the said articles;

(5) And if the said principal shall deliver to the district director of Customs all the documents and evidence as may be required in connection with the entry of the articles at the designated fair, and in the form and within the time required by law or regulations, or any lawful extensions thereof, and shall comply with all other requirements of law and regulations;

Then this obligation shall be void; otherwise to remain in full force and effect.

Signed, sealed, and delivered in the presence of—

_____
(Name) (Address)

_____
(Name) (Address)

_____ [seal]
(Principal)

_____
(Name) (Address)

_____
(Name) (Address)

_____ [seal]
(Surety)

_____
(Name) (Address)

_____
(Name) (Address)

_____ [seal]
(Surety)

Certificate as to Corporate Principal

I, _____, certify that I am the _____ (*) _____ of the corporation named as principal in the within bond; that _____, who signed the said bond on behalf of the principal, was then _____ of the said corporation; that I know his signature thereto is genuine; and that said bond was duly signed, sealed, and attested for and in behalf of said corporation by authority of its governing body.

Subpart B—Procedure for Importation

§ 147.11 Entry.

(a) *Made in name of fair operator.* All entries of articles for a fair shall be made at the port in the name of the fair operator which shall be deemed for Customs purposes the sole consignee of the merchandise entered under the Act and responsible to the Government for all duties and charges due the United States on account of such entries.

(b) *Merchandise arriving at port other than port of the fair.* Articles to be entered under this subpart which arrive at ports other than the port of the fair shall be entered for immediate transportation without appraisement to the latter port in the manner prescribed in Part 18 of this chapter.

(c) *Form of entry.* Articles shall be entered upon arrival at the port of the fair on a special form of entry to read substantially as follows:

---

* (May be executed by the secretary, assistant secretary, or other corporate officer.)

_____ [seal]

Subpart H—Military and Civilian Employees of the United States, and Evacuees.

§ 148.71 Status of persons in service of United States as returning residents.

A person in the service of the United States and members of his family arriving in the United States are ordinarily considered returning residents for the purpose of schedule 8, part 2A, Tariff Schedules of the United States (19 U.S.C. 1202), except that the following persons are treated as nonresidents:

(a) A wife or husband of any person in the service of the United States emigrating to the United States, and

(b) A child born abroad of any person in the service of the United States who is arriving in the United States for the first time.

§ 148.72 Articles acquired abroad by personnel on Government vessels.

(a) *Declaration of dutiable articles by commanding officer.* Immediately upon the arrival of any vessel operated by the United States or any agency thereof from a foreign port, the commanding officer shall file with the district director information as to dutiable articles acquired abroad in the following form:

United States Navy Customs Declaration

U.S.S. ______________, Port of arrival ______________

To the District Director of Customs:

Herewith is submitted a list of articles acquired in foreign countries by me and the respective officers and members of the crew under my command, which list is correct to the best of my knowledge and belief.

Owner	Rank	Description of articles	Cost or value

Date ______________, 19____

____
(Name)

____
(Rank)

____
Commanding Officer

If there are no articles to be listed, the statement "Nothing to declare" shall be placed on the form. No individual baggage declarations shall be required.

(b) *Examination of baggage.* Articles listed on the declaration filed by the commanding officer shall be segregated until formally passed by Customs. The listed articles shall be examined and passed in the same manner as the baggage on passenger vessels.

§ 148.73 Baggage on military transports.

(a) *Declaration.* Commissioned officers and enlisted personnel of the Armed Forces of the United States engaged in the operation of an Army or Navy transport, enlisted men carried as passengers, and civilian officers and crewmembers shall not be required to execute baggage declarations, but all articles acquired abroad by them must be listed on the manifest of the vessel. All cabin passengers shall be required to execute written baggage declarations.

(b) *Exemptions applicable.* Passengers on transports shall be granted the applicable exemptions from duty provided for in schedule 8, part 2A, Tariff Schedules of the United States (19 U.S.C. 1202). Members of the Armed Forces of the United States and personnel in the civil service of the United States engaged in the operation of the vessel shall be accorded the same privilege. Civilian officers and crewmembers not in the service of the United States shall be subject to the provisions of Subpart G of this part with respect to exemption from duty.

(c) *Examination of baggage.* Baggage on transports shall be examined at the port where landed in the same manner as baggage on commercial vessels.

§ 148.74 Exemption on termination of assignment to extended duty or on evacuation.

(a) *Exemption.* With the limitation on alcoholic beverages and tobacco products provided in paragraph (c) of this section, entry free of duty and tax under item 817.00, and schedule 8, part 2, headnote 1, Tariff Schedules of the United States (19 U.S.C. 1202), may be accorded personal and household effects of:

(1) Any person in the service of the United States who returns to the United States upon the termination of assignment to extended duty at a post or station outside the Customs territory of the United States;

(2) Members of his family who have resided with him at such post or station and are returning upon the termination of his assignment; or

(3) Any person evacuated to the United States under Government orders or instructions.

(b) *Applicability of exemption.* The term "personal effects" as used in item 817.00, Tariff Schedules of the United States (19 U.S.C. 1202), is not confined to that class of articles described in item 812.10, Tariff Schedules of the United States, nor is any period of use, such as is prescribed by item 810.10, Tariff Schedules of the United States, applicable to household effects entered under item 817.00. The privilege of free entry under item 817.00, Tariff Schedules of the United States, does not apply to:

(1) Articles imported for sale, or for the account of any person not specified in item 817.00, Tariff Schedules of the United States; or

(2) Articles which have not been in the direct personal possession of the claimant, or a member of his household, while abroad.

(c) *Limitation on alcoholic beverages and tobacco products.* A total of not more than 4 liters of alcoholic beverages and not more than 100 cigars shall be accorded free entry under item 817.00, Tariff Schedules of the United States (19 U.S.C. 1202), subject to the conditions that: (Sec. 7, 52 Stat. 1081, item 817.00, Tariff Schedules of the United States, 92 Stat. 888 (19 U.S.C. 1202, 1321, sec. 202 Pub. L. 95-41.)) **[TD 80-179.]**

(1) These articles accompany the person making the claim for free entry upon his arrival in the United States;

(2) Not more than 1 liter of any such alcoholic beverages shall have been distilled or otherwise manufactured and bottled in any place other than the United States or its possessions; (Sec. 7, 52 Stat. 1081, item 817.00, Tariff Schedules of the United States, 92 Stat. 888 (19 U.S.C. 1202, 1321, sec. 202 Pub. L. 95-410)) **[TD 80-179.]**

(3) Such individual has not concurrently claimed exemptions as a returning resident under items 813.30 and 813.31, Tariff Schedules of the United States; and

(4) Such person, if other than one in the service of the United States, shall have attained the age of 21.

(d) *Termination of assignment to extended duty.* The requirement of item 817.00 that the person "returns to the United States upon the termination of assignment to extended duty" shall be considered met upon necessary proof being submitted that any one of the following is applicable:

(1) The person is returning upon the termination of a tour of duty outside the Customs territory of the United States of at least 140 days' duration.

(2) The person is returning after the termination of an assignment under permanent change of station orders to duty at a post or station outside the Customs territory of the United States, regardless of the duration of the duty. A crewmember, including a member of a command, serving on a United States naval vessel when it departs from the United States on an intended deployment of 120 days or more outside the Customs territory of the United States and who continues to serve on the vessel until it returns to the United States may be considered as returning after the termination of an assignment of duty under permanent change of station orders.

(3) The person is returning to the United States upon the termination of a tour of duty at any time after leaving the United States for duty of not less than 140 days outside the Customs territory of the United States.

(4) The person, although not returning to the United States, is ordered by the Government agency involved from duty at a post or station outside the Customs territory of the United States to duty at another post or station outside the Customs territory of the United States necessitating the return to the United States of his personal and household effects.

§ 148.75 Persons ineligible for exemption on termination of assignment.

(a) *Persons returning from temporary assignment.* No person, or member of his family, shall be allowed free entry of personal and household effects under item 817.00, Tariff Schedules of the United States (19 U.S.C. 1202), where the person returns to the United States pursuant to Government orders or instructions which authorized him initially to proceed to a foreign post or station and return to the United States upon termination of temporary duty, except as it may otherwise be deemed proper in accordance with the provisions of § 148.74(d) or § 148.76.

(b) *Persons returning on leave or before termination of extended duty assignment.* A person returning on leave, other than on reemployment leave at the termination of assignment to extended duty as defined in § 148.74(d), or otherwise returning before the termination of an assignment to extended duty outside the Customs territory of the United States, with or without orders covering the return, is not eligible for an exemption under item 817.00, Tariff Schedules of the United States (19 U.S.C. 1202).

(c) *Person returning on temporary duty assignment.* A person returning to the United States under orders on temporary duty assignment at the termination of which he is returned to his duty station abroad to resume his regular duties is not regarded as returning to the United States at the termination of extended duty outside the Customs ttory of the United States and is not eligible for an exemption under item 817.00, Tariff Schedules of the United States (19 U.S.C. 1202).

§ 148.76 Waiver of requirements or limitations.

In any case in which the limitation on the quantity of alcoholic beverages and tobacco products which may be exempted from duty and tax under § 148.74(c) or the failure of the person to meet the requirements that he be returning upon the termination of assignment to "extended duty," as explained in § 148.74(d), will cause undue hardship to the person through no fault of his own, but rather because of the nature of his assignment or other hardship circumstances, the Commissioner of Customs, upon receipt of a request from the Government agency involved, may waive the limitation or the requirement, as the case may be, if he deems such waiver warranted by the facts.

§ 148.77 Entry of effects on termination of assignment to extended duty, or on evacuation.

(a) *General procedure.* All articles for which free entry is claimed under item 817.00, Tariff Schedules of the United States (19 U.S.C. 1202), shall be entered or withdrawn in accordance with the requirements prescribed by the Tariff Act of 1930, as amended. District directors shall be satisfied in all cases that the articles for which free entry is claimed under item 817.00, Tariff Schedules of the United States, are personal and household effects of the importer entitled to the benefits of item 817.00, particularly in those cases where the quantity of effects imported may appear to be unreasonable for personal or household use. No invoice shall be required for articles accorded free entry under this provision.

(b) *Declaration and entry*—(1) *Person entitled to exemption.* Declaration and entry for articles claimed to be exempt from duty and tax under item 817.00, Tariff Schedules of the United States (19 U.S.C. 1202), may be made on Customs Form 6061, or Department of Defense Form (DD) 1252 when entry is made in the name of the person who is entitled to the benefits of the exemption. The date of the person's last departure from the United States shall be indicated on the declaration and entry.

(2) *Designated official.* Customs Form 3299 or Department of Defense Form 1252 executed on behalf of the owner of unaccompanied personal and household effects by either a United States Dispatch Agent or a designated responsible military official in his own name, may be accepted by the Customs officer as the declaration and entry if there is a valid reason evident from the owner's travel orders or information at hand why the United States Government agency concerned is unable to present Department of Defense Form (DD) 1252 or Customs Form 3299 executed by the owner. The date of the owner's last departure from the United States need not be indicated on the form. The following statement shall be added across the face or to the back of Customs Form 3299 or Department of Defense Form 1252.

> This form is completed on behalf of (Name of Government employee) Travel orders and information on hand in this office show that the named person has met all requirements of section 148.74, Customs Regulations, and is entitled to the benefits of item 817.00, Tariff Schedules of the United States. The shipment imported consists of nothing but personal and household effects of the named

person, which effects are not imported for sale or as an accommodation for others.

(c) *Verification of claim for exemption*—(1) *By travel orders*. The declaration and entry shall be verified by the Customs officer by an inspection of the owner's travel orders. If the district director accepts an inspection of the owner's travel orders as evidence that the effects were brought into the United States within the requirements of item 817.00, the owner's travel orders shall be identified on the entry, which shall be handled like a free baggage declaration.

(2) *By other evidence*. The declaration and entry may be verified by other evidence which satisfies the district director that the effects were brought into the United States in connection with:

(i) The person's return to the United States upon the termination of assignment to extended duty, as explained in § 148.74(d);

(ii) The return of members of his family who have resided with him at his post or station upon the termination of his assignment; or

(iii) The evacuation of a person to the United States under Government orders or instructions. **[TD 82-145.]**

Subpart I—Personnel of Foreign Governments and International Organizations and Special Treatment for Returning Individuals

§ 148.81 General provisions.

(a) *Reciprocal privileges*. The privileges provided for in §§ 148.81 through 148.86 and § 148.90 of this chapter shall be accorded only if reciprocal privileges are granted by the foreign government involved to U.S. personnel of comparable status. **[TD 73-227.]**

(b) *Baggage and effects*. The term "baggage and effects," as used in this subpart includes all articles which were in the possession of a person abroad, and are being imported in connection with his arrival, and which are intended for his bona fide personal or household use. It does not include articles imported as an accommodation to others or for sale or other commercial use. **[TD 73-227.]**

(c) *Aliens*. The privileges provided in this subpart shall be accorded only to alien representatives, officers, employees, and members of the armed forces of foreign governments and designated public international organizations. **[TD 73-227.]**

(d) *Internal revenue tax*. Any article exempted from the payment of duty under this subpart shall be exempt also from the payment of any internal revenue tax imposed upon or by reason of importation. **[TD 73-227.]**

§ 148.82 Diplomatic, consular and other privileged personnel.

(a) *Inviolability of the person of diplomatic personnel*. The person of the representatives of foreign governments and members of their families set forth below shall be free from arrest, search, or detention:

(1) Ambassadors, ministers, charges d'affaires, secretaries, counselors, attaches of foreign embassies and legations, and other heads of diplomatic missions or members of the diplomatic staffs of such missions, accredited to the United States or en route between other countries to which accredited and their own countries.

(2) Members of the families forming part of the households of the diplomatic personnel listed in the preceding subparagraph, who are accompanying them or traveling separately to join them incidental to their official travel, excluding those members of families who are U.S. nationals.

(3) Members of the administrative and technical staffs of diplomatic missions accredited to the United States and members of their families forming part of their household, all of whom are not nationals or permanent residents of the United States who are accompanying them or traveling separately to join them incidental to their official travel.

(4) Diplomatic and consular couriers.

(b) *Exemption for baggage and effects and admission without entry*. The baggage and effects of the following representatives of foreign governments shall be admitted free of duty without the filing of an entry, upon the request of the Department of State and appropriate instructions from the United States Customs Service in each instance:

(1) Ambassadors, ministers, charges d'affaires, secretaries, counselors, attaches of embassies and legations, and other members of the diplomatic staffs of such missions accredited to the United States or en route to or from other countries to which assigned, as well as recognized consular officers, and the immediate families, suites, and servants of all the above under item 820.10, Tariff Schedules of the United States (19 U.S.C. 1202).

(2) Members of the administrative and technical staffs of diplomatic missions and members of their families forming part of their households, all of whom are not nationals or permanent residents of the United States under item 820.10, Tariff Schedules of the United States (19 U.S.C. 1202). Unless more extensive privileges are provided in treaties or special agreements between the United States and the foreign country concerned, this privilege is limited to baggage and effects imported at the time of first installation.

(3) Consular employees who are not nationals or permanent residents of the United States. Unless more extensive privileges are provided in treaties or special agreements between the United States and the foreign country concerned, this privilege is limited to articles imported at the time of first installation.

(4) Other high officials of foreign governments and such distinguished foreign visitors as may be designated by the Department of State, and their immediate families under item 820.50, Tariff Schedules of the United States (19 U.S.C. 1202).

(5) Foreign government personnel entitled to privileges under statutes or treaties under item 820.60, Tariff Schedules of the United States (19 U.S.C. 1202).

(6) Diplomatic couriers, limited to accompanying baggage and effects.

(c) *Absence of special request*. In the absence of special request from the Department of State prior to the arrival of representatives of foreign governments enumerated in paragraph (b)(1) of this section, their immediate families as well as accompanying suites and servants, and diplomatic couriers, their baggage and effects may be admitted free of duty without entry upon presentation of their credentials or other proof of their identity.

(d) *Delay in arrival of baggage or effects.* If by accident or unavoidable delay in shipment the baggage or other effects of a person entitled to the privileges of this section shall arrive after him upon satisfactory proof of ownership, such baggage or effects may be passed free of duty without entry.

(e) *Inspection of baggage*—(1) *Exemption for representatives of foreign governments.* The personal baggage of the following representatives of foreign governments and their families is ordinarily exempt from inspection:

(i) Ambassadors, ministers, charges d'affaires, secretaries, counselors, attaches of foreign embassies or legations, and other members of the diplomatic staffs of such missions, who are accredited to the United States or en route between other countries to which accredited and their own countries and members of their families forming part of their household who are not nationals of the United States.

(ii) Consular officers recognized by the United States and members of their families forming part of their household who are not nationals or permanent residents of the United States, provided the baggage accompanies them.

(iii) Diplomatic couriers, provided the baggage accompanies them.

(2) *Conditions permitting inspection.* The personal baggage of representatives of foreign governments listed in subparagraph (1) of this paragraph and members of their families may be inspected if there is serious reason to believe that it contains:

(i) Articles other than those for the personal use of such persons or for the use of their establishments or for official mission use.

(ii) In the case of consular officers and their families, articles intended for consumption in excess of the quantities necessary for direct use by the person concerned.

(iii) Articles which are absolutely or conditionally prohibited importation or exportation under the laws or regulations of the United States, or which are subject to the quarantine laws or regulations of the United States.

(3) *Presence of foreign representative.* When inspection of personal baggage is permitted under subparagraph (2) of this paragraph, the inspection shall take place only in the presence of the affected representative of a foreign government, or his authorized agent.

§ 148.83 Diplomatic and consular bags.

(a) *Diplomatic bags.* The contents of diplomatic bags are restricted to diplomatic documents and articles intended exclusively for official use and packages constituting the diplomatic bag must bear visible marks of their character. Diplomatic bags shall not be opened or detained nor shall they be subject to duty or entry.

(b) *Consular bags.* Consular bags must bear visible external marks of their character and their contents are restricted to official correspondence and documents or articles intended exclusively for official use. Consular bags shall not be subject to duty and ordinarily shall not be opened or detained. However, if Customs officers have serious reason to believe that a consular bag contains other than permissible materials, they may request that the bag be opened in their presence by an authorized representative of the foreign government concerned. If this request is refused, the consular bag shall be returned to its place of origin.

§ 148.84 Special treatment for returning individuals.

(a) Except as otherwise provided by law, an individual returning to the United States from abroad: **[TD 76-325, 78-394]**

(1) Shall not have his or her baggage and effects admitted free of duty without entry.

(2) Shall not be entitled to expedited Customs examination and clearance of his or her baggage and effects unless the district director finds:

(i) That the individual:

(A) Is seriously ill or infirm;

(B) Was summoned by news of affliction or disaster; or

(C) Is accompanying the body of a deceased relative; or

(ii) That a special circumstance exists which warrants expedited examination and clearance.

(b) For purposes of this section, the term "baggage and effects" means any article which was in the possession of the individual while abroad, is being imported in connection with his or her arrival, and is intended for his or her bona fide personal or household use. This term does not include any article imported as an accommodation to others or for sale or other commercial use.

§ 148.85 Subsequent importations for the personal or family use of diplomatic, consular and other privileged personnel.

The privilege of importing free of duty and without the filing of any entry articles for personal or family use, but not as an accommodation for others or for sale or other commercial use, shall be granted upon the request of the Department of State and upon appropriate instructions from the United States Customs Service in each instance, to the following:

(a) Ambassadors, ministers, charges d'affaires, secretaries, counselors and attaches of foreign embassies and legations accredited to the United States under item 822.10, Tariff Schedules of the United States (19 U.S.C. 1202);

(b) Other representatives, officers and employees of foreign governments, under item 822.30, Tariff Schedules of the United States (19 U.S.C. 1202); and

(c) Other persons designated pursuant to statute or pursuant to treaties between the United States and the countries which they represent, under item 822.40, Tariff Schedules of the United States (19 U.S.C. 1202).

§ 148.86 Articles for official use of representatives of foreign governments and public international organizations.

Office supplies and equipment and other articles for the official use of members and attaches of foreign embassies and legations, consular officers, and other representatives of foreign governments, or of personnel of public international organizations, may be admitted free of duty under item 841.10, Tariff Schedules of the United States, without the filing of an entry, upon the request of the Department of State. **[TD 82-145.]**

§ 148.87 Officers and employees of, and representatives to public international organizations.

(a) *Exemption for baggage and effects.* The baggage and effects of the alien officers and employees of, or representatives of foreign governments, to the organizations designated by the President as public international organizations pursuant to section 1 of the International Organizations Immunities Act (22 U.S.C. 288), and the baggage and effects of their families, suites, and servants, shall be admitted free of duty and without entry under item 820.30, Tariff Schedules of the United States (19 U.S.C. 1202), but only upon the receipt in each instance of instructions from the United States Customs Service issued at the request of the Department of State.

(b) *Designated public international organizations.* The President, by virtue of the authority vested in him by section 1 of the International Organizations Immunities Act of December 29, 1945 (22 U.S.C. 288), has designated certain organizations as public international organizations entitled to the free entry privileges of that statute. The following is a list of the public international organizations currently entitled to such free entry privileges and the Executive orders by which they were designated: (Sec. 1, 59 Stat. 669 (22 U.S.C. 288)) [TDs 74-21, 74-113, 74-143, 75-220, 78-99.]

Organization	Executive Order	Date
Asian Development Bank	11334	Mar. 7, 1967
Caribbean Organization	10983	Dec. 30, 1961
Coffee Study Group	10943	May 19, 1961
Customs Cooperation Council	11596	June 5, 1971
European Space Research Organization (ESRO)	11760	Jan. 17, 1974
Food and Agriculture Organization	9698	Feb. 19, 1946
Great Lakes Fishery Commission	11059	Oct. 23, 1962
Inter-American Defense Board	10228	Mar. 26, 1951
Inter-American Development Bank	10873	Apr. 8, 1960
Inter-American Institute of Agricultural Sciences	9751	July 11, 1946
Inter-American Statistical Institute	9751	Do.
Inter-American Tropical Tuna Commission	11059	Oct. 23, 1962
Intergovernmental Maritime Consultative Organization	10795	Dec. 13, 1958
International Atomic Energy Agency	10727	Aug. 31, 1957
International Bank for Reconstruction and Development	9751	July 11, 1946
International Centre for Settlement of Investment Disputes	11966	Jan. 19, 1977
International Civil Aviation Organization	9863	May 31, 1947
International Coffee Organization	11225	May 22, 1965
International Cotton Advisory Committee	9911	Dec. 19, 1947
International Cotton Institute	11283	May 27, 1966
International Development Association	11966	Jan. 19, 1977
International Finance Corporation	10680	Oct. 2, 1956
International Hydrographic Bureau	10769	May 29, 1958
International Joint Commission—United States and Canada	9972	June 25, 1948
International Labor Organization	9698	Feb. 19, 1946
International Monetary Fund	9751	July 11, 1946
International Pacific Halibut Commission	11059	Oct. 23, 1962
International Secretariat for Volunteer Service	11363	July 20, 1967
International Telecommunications Satellite Organization (INTELSAT)—Limited privileges only	11718	May 14, 1973
International Telecommunications Satellite Organization (INTELSAT)	11966	Jan. 19, 1977
International Telecommunication Union	9863	May 31, 1947
International Wheat Advisory Committee (International Wheat Council)	9823	Jan. 24, 1947
Organization for Economic Cooperation (now known as the Organization for Economic Cooperation and Development)	10133	June 27, 1950
Organization of African Unity (OAU)	11767	Feb. 19, 1974
Organization of American States	10533	June 3, 1954
Pan American Health Organization (includes the Pan American Sanitary Bureau)	10864	Feb. 18, 1960
Pan American Union	10533	June 3, 1954
Provisional Intergovernmental Committee for the Movement of Migrants from Europe (now known as the Intergovernmental Committee for European Migration)	10335	Mar. 28, 1952
Southeast Asia Treaty Organization	10866	Feb. 23, 1960
South Pacific Commission	10086	Nov. 25, 1949
United International Bureau for the Protection of Intellectual Property	11484	Sept. 29, 1969
United Nations	9698	Feb. 19, 1946
United Nations Educational, Scientific, and Cultural Organization	9863	May 31, 1947
Universal Postal Union	10727	Aug. 31, 1957
World Health Organization	10025	Dec. 30, 1948
World Intellectual Property Organization	11866	June 18, 1975
World Meteorological Organization	10676	Sept. 1, 1956

§ 148.88 Certain representatives to and officers of the United Nations and the Organization of American States.

(a) *Exemption for baggage and effects and admission without entry.* At the request of the Department of State and upon appropriate instructions from the United States Customs Service in each instance, the privilege of admission free of duty without the filing of an entry may be extended to the baggage and effects of the following alien representatives, officers, and members of the staff of the United Nations and the Organization of American States, and their personal baggage is ordinarily exempt from inspection, subject to § 148.82(e)(2):

(1) Every person designated by a United Nations member nation as the principal resident representative to the United Nations of such member or as a resident representative with rank of ambassador or minister plenipotentiary and members of their families;

(2) Such resident members of their staffs as may be agreed upon between the Secretary-General of the United Nations, the Government of the United States, and the Government of the United Nations member concerned and members of their families;

(3) Every person designated by a United Nations member of a specialized United Nations agency as its principal resident representative, with the rank of ambassador or minister plenipotentiary at the headquarters of such agency in the United States and members of their families;

(4) Such other principal resident representatives of United Nations members to a specialized United Nations agency and such resident members of the staffs of representatives to a specialized United Nations agency as may be agreed upon between the principal executive officer of the specialized agency, the Government of the United States, and the Government of the United Nations member concerned and members of their families;

(5) The Secretary-General, Under Secretaries-General, and Assistant Secretaries-General to the United Nations and members of their families;

(6) Representatives of members to the principal and subsidiary organs of the United Nations and to conferences convened by the United Nations, while exercising their functions and during their journey to and from the place of meeting, with regard to personal baggage only;

(7) Experts performing missions for the United Nations, the same facilities for personal baggage as are accorded diplomatic envoys;

(8) Any person designated by a member of the Organization of American States as its representative or interim representative on the council of the Organization of American States and members of their families; and

(9) All other permanent members of the Delegation of a member of the Organization of American States and members of their families regarding whom there is agreement for that purpose between the government of the member state concerned, the Secretary-General of the Organization of American States, and the Government of the United States of America.

(b) *Absence of special request.* In the absence of a special request from the Department of State prior to the arrival of persons of the classes enumerated in paragraph (a) of this section, the privilege of admission free of duty without entry may be extended to their baggage and effects upon presentation of their credentials or other proof of identity.

(c) *Importations for personal or family use.* Upon the request of the Department of State and appropriate instructions from the United States Customs Service, the privilege of importing without entry and free of duty articles for their personal or family use but not as an accommodation for others or for sale or other commercial use may be granted to persons of the classes enumerated in paragraph (a) of this section except those in paragraph (a) (6) and (7), of this section, under item 822.40, Tariff Schedules of the United States (19 U.S.C. 1202).

(d) *Personal inviolability.* The person of the representatives to and officers of the United Nations and the Organization of American States set forth in paragraph (a) of this section shall be free from arrest, search, and detention except that persons of the rank set forth in paragraph (a) (6) and (7) of this section shall be accorded this privilege only while exercising their function and traveling to and from the place of meeting.

§ 148.89 Property of public international organizations and foreign governments.

(a) *Exemption from duty.* Property of designated international organizations listed in paragraph (b) of § 148.87 or of foreign governments shall be admitted free of duty and internal-revenue taxes imposed upon or by reason of importation under 22 U.S.C. 288a(d), but such exemption shall be granted only upon the receipt in each instance of instruction from the United States Custom Service issued at the request of the Department of State.

(b) *Bond.* Any Customs bond which may be required from a designated international organization (see paragraph (b) of § 148.87) in connection with the importation or entry of merchandise into, or the exportation of merchandise from, the United States may be accepted without surety.

§ 148.90 Foreign military personnel.

(a) *Exemptions allowed.* District directors shall in accordance with the provisions of this section admit the following free of duty and internal revenue tax imposed upon or by reason of importation:

(1) The baggage and effects of persons on duty in the United States as members of the armed forces of any foreign country, and of their immediate families under item 820.40, Tariff Schedules of the United States (19 U.S.C. 1202);

(2) Articles entered or withdrawn from warehouse for consumption by a member of the armed forces of any foreign country on duty in the United States, for his personal use or that of any member of his immediate family but not as an accommodation to others or for sale or other commercial use, under item 822.20, Tariff Schedules of the United States (19 U.S.C. 1202); and

(3) Articles entered or withdrawn from warehouse for consumption for the official use of members of the armed forces of any foreign country on duty in the United States, under item 841.20, Tariff Schedules of the United States (19 U.S.C. 1202).

(b) *Reciprocity limitation.* When district directors have been advised officially of a finding by the Secretary of the Treasury that a foreign country does not reciprocate to members of the armed forces of the United States on duty in its country and members of their immediate families the privileges accorded its members and their families in the United States, the district directors shall accord to the personnel of such foreign government privileges under the law only to the extent to which the foreign government accords similar treatment to members of the armed forces of the United States and members of their immediate families.

(c) *Status of importer questioned.* If any question arises as to the status of the importer under item 820.40, 822.20, or 841.20, Tariff Schedules of the United States (19 U.S.C. 1202), or whether articles entered thereunder are for official use or for personal or family use, but not as an accommodation to others or for sale or other commercial use, the district director shall report the available facts to the Commissioner of Customs for instructions.

(d) *Alcoholic beverages for personal or family use*—(1) *General rule*—(i) *Limitation stated.* Except in the case of exceptional circumstances set forth in paragraph (d)(2) of be made on the entry or other appropriate document and if approved shall be subject to the following conditions:

(a) *Sealing of packages.* If examination is to be made at the importer's premises or other place not under control of a Customs officer, the district director may require the packages to be corded and sealed by a Customs officer before the packages are removed from the place of arrival. The packages shall be opened only in the presence of the Customs officer authorized to examine their contents.

(b) *Opening and closing packages.*

(1) *At place of arrival within port limits.* When the examination is to be performed at the place of arrival, such as a pier, dock, or terminal, within the port limits, the importer shall arrange with the operator of the pier, dock, terminal, or other facility for the opening and closing of examination packages, unless other arrangements satisfactory to the district director are made.

(2) *Other.* When the examination is to be performed outside the port limits, or at any place within the port limits other than at the public stores or at the place of arrival within the meaning of subparagraph (1) of this paragraph, the importer shall arrange to open and close the examination packages.

(c) *Reimbursement of expenses outside port limits.* If the place of examination is not located within the limits of a port of entry or a Customs station at which a Customs officer is permanently located, the importer shall pay any additional expense, including actual expenses of travel and subsistence but not the salary of the examining officer. However, no collection shall be made if the total amount chargeable against one importer for one day amounts to less than 50 cents. If the total amount chargeable amounts to 50 cents or more but less than $1, a minimum charge of $1 shall be made.

(d) *Bond for removal from Customs custody.* Before permitting the removal of merchandise for examination elsewhere than at the public stores, wharf, or other place in charge of a Customs officer, the district director shall require the importer to execute a bond on Customs Forms 7551, 7553, or other appropriate form, containing a condition for the return of the merchandise if demand for return is made after its release from Customs custody upon the completion of examination. The bond shall contain added conditions that:

(1) The importer shall hold the merchandise at the place to which it has been removed for examination until it has been released from Customs custody;

(2) If such merchandise has been corded and sealed, the cords and seals shall be kept intact until removed by Customs officers; and

(3) The importer shall transfer the merchandise at any time before such release to such place as the district director may require.

§ 151.8 Examination after assembly.

(a) *Application by importer.* Upon application by the importer, machinery, altars, shrines, and other articles which must be set up or assembled prior to examination may be examined at the mill, factory, or other suitable place after being assembled.

(b) *Conditions applicable.* The importer shall comply with the conditions set forth in § 151.7 (b) through (d). The district director may also require that a deposit be made of the estimated additional expense. The packages need not be corded and sealed in accordance with § 151.7(a), but the district director may make such preliminary examination as he deems necessary to identify the merchandise with the invoice.

(c) *Removal of merchandise and notification of assembly.* After the bond required by § 151.7(d) has been filed and any necessary preliminary examination has been made, the district director may permit the merchandise to be removed to the place at which it is to be assembled for examination. Within 90 days after such removal, unless an extension has been applied for and granted by the district director, the importer shall notify the district director that the merchandise has been assembled and is ready for examination, whereupon final examination shall be made.

§ 151.9 Immediate transportation entry delivered outside port limits.

When merchandise covered by an immediate transportation entry has been authorized by the district director to be delivered to a place outside a port of entry as provided for in § 18.11(c) of this chapter, the provisions of § 151.7 shall be complied with to the same extent as if the merchandise had been delivered to the port of entry, and then authorized to be examined elsewhere than at the public stores, wharf, or other place where a Customs officer is stationed.

§ 151.10 Sampling.

When deemed necessary, the district director may obtain samples of merchandise for appraisement, classification, or other official Customs purposes. Representative samples shall be selected by an authorized Customs officer, and shall be properly marked to insure identification and retained as long as the district director shall deem necessary.

§ 151.11 Request for samples or additional examination packages after release of merchandise.

If the district director requires samples or additional examination packages of merchandise which has been released from Customs custody, he shall send the importer a written request, on Customs Form 28, Request for Information, or other appropriate form, to submit the necessary samples or packages. If the request is not promptly complied with, the district director may make a demand under the appropriate bond for the return of the necessary merchandise to Customs custody in accordance with § 141.113 of this chapter. **[TD 75-152.]**

§ 151.12 Benzenoid chemicals and products.

Additional procedures for sampling and testing of benzenoid chemicals and products are set forth in subpart D of Part 152 of this chapter.

Subpart B—Sugars, Sirups, and Molasses

§ 151.21 Definitions.

The following are general definitions for the purposes of this subpart in applying schedule 1, part 10, Tariff Schedules of the United States (19 U.S.C. 1202):

(a) *Degree*. "Degree" or "sugar degree" means the percentage of sucrose contained in the sugar as shown by direct polarimetric estimation.

(b) *Total sugars*. "Total sugars" means the sum of the sucrose, the raffinose, and the reducing sugars.

§ 151.22 Estimated duties on raw sugar.

Estimated duties shall be taken on raw sugar on the basis of not less than 96° polariscopic test unless the invoice shows that the sugar is of a lower grade than that of the ordinary commercial shipment.

§ 151.23 Allowance for moisture in raw sugar.

Inasmuch as the absorption of sea water or moisture reduces the polariscopic test of sugar, there shall be no allowance on account of increased weight of raw sugar importations due to unusual absorption of sea water or other moisture while on the voyage of importation. Any portion of the cargo claimed by the importer to have absorbed sea water or moisture on the voyage of importation shall be weighed, sampled, and tested separately. No such claim shall be considered if made after the sugar claimed to have been damaged has been weighed.

§ 151.24 Unlading facilities for bulk sugar.

When dutiable sugar is to be imported in bulk, a full description of the facilities to be used in unlading the sugar shall be submitted to the Commissioner of Customs as far as possible in advance of the date of importation, and special instructions will be issued as to the methods to be applied in weighing and sampling such sugar.

§ 151.25 Mixing classes of sugar.

No regulations relative to the weighing, taring, sampling, classifying, and testing of imported sugar shall be so construed as to permit mixing together sugar of different classes, such as centrifugal, beet, molasses, or any sugar different in character from those mentioned, for the purpose of weighing, taring, sampling, or testing.

§ 151.26 Molasses in tank cars.

When molasses is imported in tank cars, the importer shall file with the district director a certificate showing whether there is any substantial difference either in the total sugars or the character of the molasses in the different cars.

§ 151.27 Weighing and sampling done at time of unlading.

Sugar, sirup, and molasses requiring either weighing or sampling shall be weighed or sampled at the time of unlading. When such merchandise requires both weighing and sampling, these operations shall be performed simultaneously.

§ 151.28 Gauging of sirup or molasses discharged into storage tanks.

(a) *Plans of storage tank to be filed*. When sirup or molasses is imported in bulk in tank vessels and is to be pumped or discharged into storage tanks, before the discharging is permitted there shall be filed with the district director a certified copy of the plans and gauge table of the storage tank showing all inlets and outlets and stating accurately the capacity in United States gallons per inch of height of the tank from an indicated starting point. [TD 80-142.]

(b) *Settling before gauging*. After the discharge is completed, all inlets to the tank shall be carefully sealed and the sirup or molasses left undisturbed for a period not to exceed 20 days to allow for settling before being gauged. When a request for immediate gauging is made in writing by the importer, it shall be allowed by the district director. [TD 80-142.]

§ 151.29 Expense of unlading and handling.

No expense incidental to the unlading, transporting, or handling of sugar, sirup, or molasses for convenient weighing, gauging, measuring, sampling, or marking shall be borne by the Government. [TD 80-142.]

§ 151.30 Sugar closets.

Sugar closets for samples shall be substantially built and secured by locks furnished by Customs. They shall be conveniently located as near as possible to the points of discharge they are intended to serve. They shall be provided by the owner of the premises on which they are located and shall be so situated that sugar, sirup, and molasses stored therein shall not be subjected to extremes of temperature or humidity.

§ 151.31 Review of tests of sugar, sirup, and molasses.

(a) *Notification to importer*. When the test of the sugar has been determined by the Customs laboratory for an importation of sugar, sirup, or molasses, the district director shall immediately send the importer a copy of the Laboratory Report, Customs Form 6415, showing the average test of the importation and the quantity and test of each lot from which such average test is obtained.

(b) *Review of test of raw sugar*. If the importer, within 2 days, exclusive of Saturdays, Sundays, and holidays, after notification of a test on raw sugar has been sent to him, claims an error in the test so reported, he may request a review of the average test, submitting such evidence that may be in his possession to support his claim. Settlement tests of the sugar in question together with any other information required by the district director shall be furnished by the importer. The district director shall arrive at a final determination based upon a review of the information available. In no instance shall a request for review be granted when the difference between the Customs average test and the settlement test of raw sugar is less than 0.4° S.

(c) *Review and retest of sirup or molasses*. If the importer claims an error in the test of sirup or molasses, the review procedures set forth in paragraph (b) of this section shall be followed. If the information in the district director's possession indicates a strong probability of an error, and the difference between the Customs test and the settlement test is not less than 2 percent total sugars, a retest shall be granted. The district director shall arrive at a final determination based upon a review of the information submitted and the retest.

Subpart C—Petroleum and Petroleum Products

§ 151.41 Information on entry summary.

On the entry summary for petroleum or petroleum product in bulk, the importer shall show the API gravity at 60°

PART 161—GENERAL ENFORCEMENT PROVISIONS

Sec.
161.0 Scope.

Subpart A—General Provisions

161.1 Customs supervision.
161.2 Enforcement for other agencies.
161.3 Prosecution for violation of Customs laws.
161.4 Bribery of Customs officers and employees.
161.5 Compromise of Government claims.

Subpart B—Informer's Compensation

161.11 Claim for compensation by informer.
161.12 Filing of claim.
161.13 Limitation on claims.
161.14 Payment of claims.
161.15 Informer's name confidential.

Authority: 80 Stat. 379, R.S. 251, as amended, sec. 624, 46 Stat. 759, 5 U.S.C. 301, 19 U.S.C. 66, 1624, unless otherwise noted.

Source: T.D. 72-213, 37 FR 16487, Aug. 15, 1972, unless otherwise noted.

§ 161.0 Scope.

The provisions of this part set forth the authority and responsibility of Customs officers in the enforcement of Customs laws of the United States. Also included are provisions relating to import and export controls enforced for other administering agencies, prosecution for violation of Customs laws, bribery of Customs officers and employees, the compromise of Government claims and informer's compensation. **[TD 72-211.]**

Subpart A—General Provisions

§ 161.1 Customs supervision.

Whenever any action or thing is required by the regulations in this chapter, or by any provision of the Customs or navigation laws, to be done or maintained under the supervision of Customs officers, such supervision shall be carried out as prescribed in the regulations of this chapter, or by instructions from the Secretary of the Treasury, or the Commissioner of Customs in particular cases. In the absence of a governing regulation or instruction, supervision shall be direct and continuous, or by such occasional verification as the principal Customs field officer shall direct if such officer shall determine that less intensive supervision will ensure proper enforcement of the law and protection of the revenue. Nothing in this section shall be deemed to warrant any failure to direct and furnish required supervision or to excuse any failure of a party in interest to comply with prescribed procedures for obtaining any required supervision. (Sec. 22, 67 Stat. 520; 19 U.S.C. 1646a)

§ 161.2 Enforcement for other agencies.

(a) *Laws enforced by Customs Service for administering agencies.* Some of the laws enforced in whole or in part by the Customs Service for administering agencies are:

(1) Importations and exportations of arms, ammunition, implements of war, helium gas, and other munitions of war are governed by laws administered by the Bureau of Alcohol, Tobacco, and Firearms and Department of State; **[TD 78-329]**

(2) Importations and exportations of controlled substances are governed by laws administered by the Bureau of Narcotics and Dangerous Drugs of the Department of Justice;

(3) [Reserved] **[TD 76-21.]**

(4) Importations and exportations of atomic energy source material, fissionable material, and equipment and devices for utilizing or producing fissionable material are subject to laws administered by the Atomic Energy Commission; and

(5) The exportation of articles, other than those previously mentioned herein, are subject to requirements of laws administered by the Department of Commerce.

(b) *Seizure for violation of law.* When articles are imported or are intended to be, are being, or have been exported from the United States in violation of law, such articles and any vessel, vehicle, or aircraft knowingly used in their transportation shall be seized and proceeded against. (Sec. 5(b), 40 Stat. 415, as amended, 62 Stat. 716, sec. 502, 68 Stat. 1140, sec. 1, 40 Stat. 223, as amended, sec. 4, 48 Stat. 340, secs. 4, 7, 60 Stat. 759, 764, sec. 414, 68 Stat. 848, as amended; 12 U.S.C. 95a, 18 U.S.C. 545, 19 U.S.C. 1595(a), 22 U.S.C. 401, 42 U.S.C. 1804, 1807, 22 U.S.C. 1934)

§ 161.3 Prosecution for violation of Customs laws.

When there is a seizure or other violation of the Customs laws which requires legal proceedings by civil or criminal action, the district director or special agent in charge of the area involved shall furnish a report to the United States attorney in accordance with section 603, Tariff Act of 1930, as amended (19 U.S.C. 1603). Action shall be taken under section 545, title 18, United States Code, only when there is clear indication of a violation of some specific provision of law. (Sec. 603, 46 Stat. 754, as amended, sec. 1, 62 Stat. 716; 18 U.S.C. 545, 19 U.S.C. 1603)

§ 161.4 Bribery of Customs officers and employees.

If, upon investigation, it is determined that money or anything of value was given, offered, or promised to a Customs officer or employee with the intent to control or influence such officer or employee in the performance of his official duties, the matter shall be referred to the United States attorney for prosecution under section 201, title 18, United States Code. (Sec. 1, 76 Stat. 1119, as amended; 18 U.S.C. 201)

§ 161.5 Compromise of Government claims.

(a) *Offer.* An offer made pursuant to section 617, Tariff Act of 1930, as amended (19 U.S.C. 1617), in compromise of a Government claim arising under the Customs laws and the terms upon which it is made shall be stated in writing addressed to the Commissioner of Customs. The offer shall be limited to the civil liability of the proponent in the matter which is the subject of the Government's claim.

(b) *Deposit of specific sum tendered.* No offer in which a specific sum of money is tendered in compromise of a Government claim under the Customs laws will be considered by the Commissioner of Customs until due notice is received that such sum has been properly deposited in the name of the person submitting the offer with the Treasurer of the United States or a Federal Reserve bank. A proponent at a distance from a Federal Reserve bank may perfect his offer by tendering a bank draft for the amount of the offer payable to the Secretary of the Treasury for collection and deposit. If the offer is rejected, the money will be returned to the proponent. (Sec. 617, 46 Stat. 757, as amended; 19 U.S.C. 1617)

Subpart B—Informer's Compensation

§ 161.11 Claim for compensation by informer.

(a) *Persons not officers of United States.* Any person not an officer of the United States who, in accordance with section 619, Tariff Act of 1930, as amended (19 U.S.C. 1619), detects, seizes, and reports any vessel, vehicle, merchandise, or baggage subject to siezure and forfeiture under the Customs or navigation laws, or who furnishes original information concerning any fraud upon the Customs revenue or a violation of the Customs or navigation laws perpetrated or contemplated, may file a claim for an award of compensation. Any Customs officer to whom the information is furnished shall advise the informant of his right to claim such an award.

(b) *Officer of the United States.* Officers of the United States are precluded by section 620, Tariff Act of 1930 (19 U.S.C. 1620) from directly or indirectly receiving or contracting for any portion of a compensation award. (Sec. 619, 620, 46 Stat. 758, as amended; 19 U.S.C. 1619, 1620)

§ 161.12 Filing of claim.

A claim for an award of compensation shall be filed in duplicate on Customs Form 4623 with the district director, but any Customs officer may receive such a claim for transmittal to the district director. Additional copies of the claim required by the district director shall be furnished on demand. Application may be made directly to the Commissioner of Customs where for any reason a claim has not been transmitted by the district director to the Commissioner. No claim for compensation shall be forwarded to the Commissioner unless a sum of not less than $5 is available for an award. (Sec. 619, 46 Stat. 758, as amended; 19 U.S.C. 1619)

§ 161.13 Limitation on claims.

Claimants may be paid 25 per centum of the net amount recovered from duties withheld, or any fine, penalty, or forfeiture incurred, but such amount shall not exceed $50,000 regardless of the number of recoveries growing out of the information furnished. (Sec. 619, 46 Stat. 758, as amended; 19 U.S.C. 1619)

§ 161.14 Payment of claims.

No claim under section 619, Tariff Act of 1930, as amended (19 U.S.C. 1619), shall be paid until the amount recovered has been deposited in the proper account. Claims shall not be paid out of the proceeds of sale. (Sec. 619, 46 Stat. 758, as amended; 19 U.S.C. 1619).

§ 161.15 Informer's name confidential.

The informer's name and address shall be kept confidential. No files nor information concerning the informer shall be permitted to get into the possession of unauthorized persons. No information shall be revealed which might aid the offenders in identifying the informer.

confidential commercial or financial information or trade secrets exempt from disclosure pursuant to the Freedom of Information Act, as amended (5 U.S.C. 552), unless, as provided in § 177.2(b)(7), the information claimed to be exempt from disclosure is clearly identified and the reasons for the exemption are set forth. Before the issuance of the ruling letter, the person submitting the ruling request, will be notified of any decision adverse to his claim for exemption from disclosure and will, upon written request to Customs within 10 working days of the date of notification, be permitted to withdraw the ruling request. All ruling letters issued by the Headquarters Office or the Regional Commissioner, Region II, will be available, upon written request, for inspection and copying by any person (with any portions determined to be exempt from disclosure deleted). **[TD 80-285.]**

(b) *Other rulings.* The Headquarters Office may from time to time issue other rulings with respect to issues or transactions described or suggested by requests for rulings submitted under the provisions of this part, or with respect to issues or transactions otherwise brought to its attention. These rulings, which are statements of the official position of the Customs Service which are likely to be of widespread interest and application, are published in the Customs Bulletin, as described in § 177.10.

§ 177.9 Effect of ruling letters; modification or revocation.

(a) *Effect of ruling letters generally.* A ruling letter issued by the Headquarters Office or the Regional Commissioner, Region II, under the provisions of this part represents the official position of the Customs Service with respect to the particular transaction or issue described therein and is binding on all Customs Service personnel in accordance with the provisions of this section until modified or revoked. In the absence of a subsequent change of practice or other modification or revocation which affects the principle of the ruling set forth in the ruling letter, that principle may be cited as authority in the disposition of transactions involving the same circumstances. **[TD 80-285.]**

(b) *Application of rulings to transactions*—(1) *Generally.* Each ruling letter is issued on the assumption that all of the information furnished in connection with the ruling request and incorporated in the ruling letter, either directly, by reference, or by implication, is accurate and complete in every material respect. The application of a ruling letter by a Customs Service field office to the transaction to which it is purported to relate is subject to the verification of the facts incorporated in the ruling letter, a comparison of the transaction described therein to the actual transaction, and the satisfaction of any conditions on which the ruling was based. If, in the opinion of any Customs Service field office by whom the transaction is under consideration or review, the ruling letter should be modified or revoked, the findings and recommendations of that office will be forwarded to the Headquarters Office for consideration, as provided in § 177.11(b)(1)(i), prior to any final disposition with respect to the transaction by that office. Otherwise, if the transaction described in the ruling letter and the actual transaction are the same, and any and all conditions set forth in the ruling letter have been satisfied, the ruling will be applied to the transaction.

(2) *Tariff classification rulings.* Each ruling letter setting forth the proper classification of an article under the provisions of the Tariff Schedules of the United States will be applied only with respect to transactions involving articles identical to the sample submitted with the ruling request or to articles whose description is identical to the description set forth in the ruling letter.

(3) *Valuation rulings.* Each ruling letter setting forth the proper valuation of an article under the provisions of section 402 or 402a of the Tariff Act of 1930, as amended (19 U.S.C. 1401a, 1402), will be applied only with respect to transactions involving the same merchandise and like facts.

(4) *Carrier rulings.* Each ruling letter setting forth the applicability of the navigation laws to a vessel will be applied only with respect to transactions involving operations identical to those set forth in the ruling letter. Each ruling letter setting forth a determination as to whether or not the primary object of a contemplated voyage is coastwise transportation in violation of 46 U.S.C. 289 will be binding on the United States Customs Service with respect to any transaction identical to the facts and circumstances described in the ruling request and undertaken in reliance on the ruling letter.

(c) *Reliance on ruling letters by others.* A ruling letter is subject to modification or revocation without notice to any person, except the person to whom the letter was addressed. Accordingly, no other person should rely on the ruling letter or assume that the principles of that ruling will be applied in connection with any transaction other than the one described in the letter. However, any person eligible to request a ruling under section 177.1(c) may request information as to whether a previously-issued ruling letter has been modified or revoked by writing the Commissioner of Customs, Attention: Office of Regulations and Rulings, Washington, D.C. 20229, and either enclosing a copy of the ruling letter or furnishing other information sufficient to permit the ruling letter in question to be identified.

(d) *Modification or revocation of ruling letters*—(1) *Generally.* Any ruling letter found to be in error or not in accordance with the current views of the Customs Service may be modified or revoked. Modification or revocation of a ruling letter shall be effected by Customs Headquarters by giving notice to the person to whom the ruling letter was addressed and, where circumstances warrant, by the publication of a notice or other statement in the Customs Bulletin.

(2) *Effect of modification or revocation of ruling letters.* The modification or revocation of a ruling letter will not be applied retroactively with respect to the person to whom the ruling was issued, or to any person directly involved in the transaction to which that ruling related, provided (i) The request for a ruling contained no misstatement or omission of material facts,

(ii) The facts subsequently developed are not materially different from the facts on which the ruling was based,

(iii) There has been no change in the applicable law,

(iv) The ruling was originally issued with respect to a prospective transaction, and

(v) All of the parties involved in the transaction acted in good faith in reliance upon the ruling and retroactive modification or revocation would be to their detriment.

Nothing in this subparagraph will prohibit the retroactive modification or revocation of a ruling with respect to a transaction which was not prospective at the time the ruling was issued, inasmuch as such a transaction was not entered into in reliance on a ruling from the Headquarters Office or the Regional Commissioner, Region II. **[TD 80-285.]**

§ 177.10 Publication of decisions.

(a) *Generally.*—Within 120 days after issuing any precedential decision under the Tariff Act of 1930, as amended, relating to any Customs transaction (prospective, current, or completed), the Customs Service shall publish the decision in the Customs Bulletin or otherwise make it available for public inspection. For purposes of this paragraph, a precedential decision includes any ruling letter, internal advice memorandum, or protest review decision. Disclosure is governed by 31 CFR, part 1, 19 CFR, part 103, and 19 CFR 177.8(a)(3). **[TD 78-394]**

(b) *Rulings regarding a rate of duty or charge.* Any ruling regarding a rate of duty or charge which is published in the Customs Bulletin will establish a uniform practice. A published ruling may result in a change of practice, it may limit the application of a court decision, it may otherwise modify an earlier ruling with respect to the classification or valuation of an article or any other action found to be in error or no longer in accordance with the current views of the Customs Service, or it may revoke a previously-published ruling or a previously-issued ruling letter. No ruling published under the provisions of this section will have the effect of changing either an earlier published ruling or a practice established by other means by imposing a higher rate of duty or charge on an article unless the earlier ruling or practice has been determined to be clearly wrong.

(c) *Changes of practice or position.* (1) Before the publication of a ruling which has the effect of changing a practice and which results in the assessment of a higher rate of duty, notice that the practice (or prior ruling on which the practice is based) is under review will be published in the Federal Register and interested parties given an opportunity to make written submissions with respect to the correctness of the contemplated change. This procedure will also be followed when the contemplated change of practice will result in the assessment of a lower rate of duty and the Headquarters Office determines that the matter is of sufficient importance to involve the interests of domestic industry. No advance notice will be provided with respect to rulings which result in a change of practice but no change in the rate of duty.

(2) Before the publication of a ruling which has the effect of changing a position of the Customs Service and which results in a restriction or prohibition, notice that the position (or prior ruling on which the position is based) is under review will be published in the Federal Register and interested parties given an opportunity to make written submissions with respect to the correctness of the contemplated change. This procedure will also be followed when the change of position will result in a holding that an activity is not restricted or prohibited and the Headquarters Office determines that the matter is of sufficient importance to involve the interests of the general public.

(d) *Limiting rulings.* A published ruling may limit the application of a court decision to the specific article under litigation, or to an article of a specific class or kind of such merchandise, or to the particular circumstances or entries which were the subject of the litigation.

(e) *Effective dates.* Except as otherwise provided for in the ruling itself, all rulings published under the provisions of this part shall be applied immediately. If the ruling involves merchandise, it will be applicable to all unliquidated entries, except that a change of practice resulting in the assessment of a higher rate of duty or increased duties shall be effective only as to merchandise entered for consumption or withdrawn from warehouse for consumption on or after the 90th day after publication of the change in the Federal Register. **[TD 78-394]**

§ 177.11 Requests for advice by field offices.

(a) *Generally.* Advice or guidance as to the interpretation or proper application of the Customs and related laws with respect to a specific Customs transaction may be requested by Customs Service field offices from the Headquarters Office at any time, whether the transaction is prospective, current, or completed. Advice as to the proper application of the Customs and related laws to a current transaction will be sought by a Customs Service field office whenever that office is requested to do so, pursuant to paragraph (b) of this section, by an importer or other person having an interest in the transaction. Advice or guidance will be furnished by the Headquarters Office as a means of assisting Customs personnel in the orderly processing of Customs transactions under consideration by them and to insure the consistent application of the Customs and related laws in the several Customs districts. Requests for advice received by the Headquarters Office will be processed as expeditiously as possible.

(b) *Certain current transactions*—(1) *When a ruling has been issued*—(i) *Requests by field offices.* If the Headquarters Office, or the Regional Commissioner, Region II, has issued a ruling letter with respect to a particular Customs transaction and the Customs Service field office having jurisdiction over that transaction feels that the ruling should be modified or revoked, the field office will forward to the Headquarters Office, pursuant to § 177.9(b)(1), a request that the ruling be reconsidered. The field office will notify the importer or other person to whom the ruling letter was issued, in writing, that it has requested the Headquarters Office to reconsider the ruling. **[TD 80-285.]**

(ii) *Requests by importers and others.* If the importer or other person to whom a ruling letter is issued disagrees with the Customs Service field office having jurisdiction over the transaction to which the ruling relates as to the proper application of the ruling to the transaction, the field office will, upon receipt of a written request submitted in accordance with the procedure set forth in subparagraph (3) of this paragraph, request advice from the Headquarters Office as to the proper application of the ruling to the transaction.

(2) *When no ruling has been issued.* Internal advice will be sought by a Customs Service field office with respect to a current transaction for which no ruling was re-

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